

## SPECIAL COUNCIL MEETING

DECEMBER 10, 2014

Council Chair Rapozo: Let the record reflect that all members are present, except for Councilmember Hooser who is excused and out-of-country, and Councilmember who is on her way. We have two (2) public hearings scheduled for 8:30 a.m. this morning. One is going to be conducted by Planning Chair Chock and the other by Budget & Finance Chair Kaneshiro. Before we begin, I would like to explain just a few house rules that is a little different and contrary to popular belief that the public's testimony has not been reduced or cut. We did install a light system that is sitting in front of the testifier's chair. I think there is a manual. When you begin your testimony, you will have three (3) minutes and the green light will shine and be on during your testimony. When you get to thirty (30) seconds remaining, the yellow light will go on and that is your summarizing period. That is what the rules state. I get criticized for this a lot, but we want to make sure that we keep these meetings as efficient as possible, as far as time is concerned. I think people need to realize that every word that comes out of the public's mouth or our Councilmembers' mouth is transcribed verbatim by our Staff. We have time limits that we need to have those minutes prepared and received for the record. The time has not changed. It is still three (3) minutes. Everyone will have a second opportunity. Once everyone is finished testifying, you can come back for a second round of three (3) minutes. Some may say that is a departure of how the rules have been, but the rules have never been different. That is what the rules have always stated. It was just applied differently and my goal is to bring it back to how it used to be to have the meetings much more efficient and much timelier. When you see the yellow light, at that moment know that that is your thirty (30) second warning. You will not have an opportunity to summarize at the end. When the red light goes off, your time is up. I appreciate the brevity. The same light will work for Councilmembers as well, so it is fair for everyone. I just do not want to be put in a bad situation to have to cut someone off, so when the yellow light goes off, that is your summarizing period. You will have thirty (30) seconds to summarize. When the red light goes off, your time is up.

The Special Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, December 10, 2014 at 9:30 a.m., after which the following members answered the call of the roll:

Honorable Mason K. Chock  
Honorable Ross Kagawa  
Honorable Arryl Kaneshiro  
Honorable KipuKai Kuali'i (*present at 9:31 a.m.*)  
Honorable JoAnn A. Yukimura  
Honorable Mel Rapozo

Excused: Honorable Gary L. Hooser

### APPROVAL OF AGENDA.

Councilmember Chock moved for approval of the agenda as circulated, seconded by Councilmember Yukimura, and carried by a vote of 6:0:1

*(Councilmember Kualii was not present and Councilmember Hooser was excused).*

*(Councilmember Kualii was noted as present.)*

Council Chair Rapozo: We have three (3) interviews for Boards & Commissions. The first one is for the Board of Review, Julie Caspillo. Can you please come to the front? Can you please state your name for the captioner?

There being no objections, the rules were suspended.

### INTERVIEWS:

#### BOARD OF REVIEW:

- Julie A. Caspillo – Term ending 12/31/2017

JULIE A. CASPILLO: My full name is Julie Black-Caspillo.

Council Chair Rapozo: Thank you very much. You are being nominated by the Mayor to sit on the Board of Review. If you would like to, you may give an opening statement, and then we will open it up for questions from Councilmembers.

Ms. Caspillo: Okay. Great. I am happy to be here and be able to be of service to the County. Just to tell you a little bit about myself, I have lived on this beautiful island since 1976. I am married to Milton “Jojo” Caspillo of Kapa‘a. We have two (2) beautiful daughters. I have been a Realtor for thirty (30) years. I own my own company now, “Kaua‘i Dreams Realty,” since 1997. I am a graduate of Kaua‘i Community College and the University of Hawai‘i at Mānoa.

Council Chair Rapozo: Thank you very much. Are there any questions for Ms. Caspillo. Go ahead, Councilmember Yukimura.

Councilmember Yukimura: Thank you for being willing to serve in this capacity. You certainly come with a really strong background in real estate. I just wondered about—I do not actually know myself how much difference there is between assessment procedures and appraisal procedures, but I just wondered if you have any background in terms, and you say you do, of the assessment process.

Ms. Caspillo: I am willing to learn. Math does not scare me.

Councilmember Yukimura: That is the main thing.

Ms. Caspillo: I am sure I will be corrected at my first meeting, but I thought that the current tax assessments are supposed to be at market value and that is something that I am very familiar with.

Councilmember Yukimura: Okay. Good. Well, I am so thankful that you are willing to learn and serve, both. Thank you.

Ms. Caspillo: Thank you.

Council Chair Rapozo: Thank you very much. Are there any other questions? If not, thank you very much.

EDUARDO TOPENIO, JR., Administrative Assistant to the County Clerk: Chair, we have one registered speaker for Julie Caspillo's nomination, Felicia Cowden.

Council Chair Rapozo: Thank you.

FELICIA COWDEN: Aloha. I am Felicia Cowden. I would like to give my very enthusiastic support for Julie Black-Caspillo. She has done a lot of represent the broad range of people who really work for a living here, tending to emphasize housing for residents. I feel that she has done an exceptional job of building trust in the community. She has been successful at what she does, being creative and helping people understand their possibilities for owning homes. I feel that she has got the breadth of knowledge of the community and the depth of understanding of the movements of the history of what we have going on here, and she has managed to prevail during the ups and downs, and ebbs and flows, of the economy and the real estate market. I think that she is an excellent choice and I am very, very glad to see her being put in this position. I think she will be fair and honest. Thank you.

Council Chair Rapozo: Thank you very much. Anyone else wishing to testify? If not, the next interviewee is Allan Parachini for the Charter Review Commission. Please state your name for the captioner and proceed to your opening statement.

#### CHARTER REVIEW COMMISSION:

- Allan H. Parachini – Term ending 12/31/2017

ALLAN H. PARACHINI: Allan Parachini. I live in Kilauea. We are comparably new arrivals to the island. We have been here since 2012 and owned the property for ten (10) years before that. I bring a fairly unique background in that I am on my third career now as a furniture maker, but the first two (2) were in the news business for about twenty-six (26) years, working as a reporter in New York, Chicago, and Los Angeles (LA); the Los Angeles Times for thirteen (13) years. I was then in Public Relations for about twenty (20) years with organizations ranging from the American Civil Liberties Union (ACLU) of Southern California to the Los Angeles Superior Court. I think the Charter Review Commission is an extremely important part of the government of this County and I look forward to the challenge of serving on it.

Council Chair Rapozo: Thank you, Mr. Parachini. I apologize for mispronouncing your name.

Mr. Parachini: Family legend has it that when my grandfather came through Ellis Island, he corrected the immigration officer on the pronunciation.

Council Chair Rapozo: Got it. Thank you. Any questions for Mr. Parachini? Councilmember Yukimura.

Councilmember Yukimura: Hi.

Mr. Parachini:

Hi.

Councilmember Yukimura: First of all, thank you for your willingness to serve. You have a very interesting background. There has been some concern that you are controversial and that maybe it is conflict generating. I just wondered how you would respond to that in terms of your performance on the Charter Review Commission.

Mr. Parachini: It is certainly true that I have been involved in issues of public controversy and have taken positions in a couple of those issues that are at odds with a small number of people here on this island. I think the Charter Review Commission's mission is to preserve the process by which our Charter is carefully construed to be the skeleton and framework of our government. A situation in which any change in the Charter needs to be done with great caution and great liberation. To the extent that I did raise issues regarding one (1) proposed initiative charter amendment that I felt fell completely out of the bounds of what the Charter anticipated a charter amendment to be. If that is controversy, I accept the mantle. It has also been said that I have some secret association with the seed companies, but just to make the record clear in this body, I have never had a single phone call, meeting, contact, or any other kind of association with any of these companies or their parents... no compensation. I have never even had an E-mail with them, except for one (1) exception when I E-mailed an employee of Syngenta who was running for this body and suggested to him that that was not a terribly good idea.

Councilmember Yukimura: Okay. Thank you very much.

Council Chair Rapozo: Thank you. Are there any other questions? If not, thank you very much. I do not have any questions. You and I have shared some similarities. If you "Google" my name, you will find some interesting stuff. I have also been accused of being in the back pockets of the seed companies, which is entirely untrue. Is there anybody in the audience wishing to testify? I think we have one (1) registered speaker.

Mr. Topenio: Yes. The registered speaker is Felicia Cowden.

Council Chair Rapozo: Thank you. If there are no objections, I will suspend the rules for Ms. Cowden.

Ms. Cowden: I am Felicia Cowden and I do not support this recommendation. It is not easy for me to do that. It is not comfortable for me to speak against an individual. I have met with him on a handful of different times earlier dealing with Kilauea Kaua'i Community Radio (KKCR) issues and Kaua'i Island Utility Cooperative (KIUC). I will acknowledge that he is very intelligent, capable, and very bright. He has an impressive record of what he has done in Los Angeles. Having just run for office and having met so many people in our community who are very capable and very appropriate, who have the depth of knowledge of our community and all the (inaudible) of the people and the relationships here. I think it is much more important for something this deep as managing the Charter, to have a person with real connection to the community and a history of the island. Mr. Parachini has been very outspoken, as have I, on the biotech issues. What I see with him though is that he has mostly been involved in

areas of controversy. It is important to also be involved in areas of constructive community building. That brings the trust in the community to know that there is this depth. He can disagree on a certain issue, but where I have been seeing him consistently championing is the interest of the power structure that already has the upper hand. He is coming in there, I feel, to undermine the citizen initiative, and I think it is really important that this Council pay close attention because I believe you can do really good things in these two (2) years, but there is already a question of whether citizen participation is being dampened. I think putting somebody on the Charter Review Commission that is coming on there with a direct intention to limit further— I read that in the paper today. I saw that he and I were both in a front page article, so he is stating it there. I am not stating it for him. That is really important to not be undermining citizen participation. It is very difficult to make these changes. I believe that there are better choices, plenty of live close by, that have a much better, deeper understanding for this Commission that is at the very core of our County and how it is run. The Charter is like the Constitution for the County. Thank you.

Council Chair Rapozo: Thank you very much. Are there any questions for Ms. Cowden? If not, thank you very much. Is there anybody else in the audience wishing to testify? Do you want to testify on this, Mr. Taylor?

KEN TAYLOR: Chair and Members of the Council, my name is Ken Taylor. I was not going to speak on this issue today, but what is troubling is that according to other testimony, this individual has spoken out favorably for the biotech industry and I think that is fine because he has the right to do that, but under the circumstance with Councilmember Kaneshiro's employment, I would think that he should step down from making any decision on this matter. Thank you.

Council Chair Rapozo: Thank you. Any questions for Mr. Taylor? If not, thank you very much. Anyone else wishing to testify? If not, I will call the meeting back to order. Our third nominee was Donald Kolenda for the Board of Review, but unfortunately, we anticipated a lot more time for the interviews, so he was informed to be here at 10:00 a.m. With that, we are going to proceed with our agenda and await Mr. Kolenda's arrival. The vote on the nominees will be next week at the next Council Meeting. You are welcomed to stay if you want and listen to the rest of the meeting. We will move on for now.

There being no objections, the meeting was called back to order, and proceeded as follows:

#### CONSENT CALENDAR:

C 2015-03 Communication (12/04/2014) from the County Auditor, transmitting for Council information, the Comprehensive Annual Financial Report (CAFR), Single Audit Reports, and Management Advisory Report for the Fiscal Year Ended June 30, 2014: Councilmember Chock moved to receive C 2015-03 for the record, seconded by Councilmember Kagawa.

C 2015-04 Communication (12/03/2014) from the Mayor, submitting the veto of Bill No. 2546, Draft 3, Relating to Real Property Taxes: Councilmember Chock moved to receive C 2015-04 for the record, seconded by Councilmember Kagawa.

Councilmember Yukimura: Mr. Chair?

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I would like to ask that the second communication, C 2015-04, be removed from the Consent Calendar.

Council Chair Rapozo: Councilmember Yukimura, actually, I am going to ask that we take that item "G." next. The auditors will not be here until 2:30 p.m., so the next item on the agenda is the Bill to lay on the table.

Councilmember Yukimura: Mr. Chair, I understand that there is no debate on the Bill to lay on the table, so I would like to have a chance to talk to the County Attorney regarding the communication from the Mayor and I have asked the County Attorney to be present.

Council Chair Rapozo: The County Attorney is here. I am not sure, and someone help me; is there no opportunity for discussion on the motion to lay on the table? There should not be? Okay, then I will definitely entertain that request. Is that a motion to remove C 2015-04?

Councilmember Yukimura: If a motion is required.

Council Chair Rapozo: I would ask that a motion be made.

Councilmember Yukimura: Okay.

Councilmember Yukimura moved to remove C 2015-04 off of the Consent Calendar, seconded by Councilmember Kagawa, and carried by a vote of 5:0:1:1 (*Councilmember Hooser was excused and Councilmember Kaneshiro was recused*).

Council Chair Rapozo: With that, we have C 2015-03. Any further discussion on that?

The motion to receive C 2015-03 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Hooser was excused*).

Council Chair Rapozo: Thank you. That will take us to C 2015-04.

#### COMMUNICATIONS:

C 2015-04 Communication (12/03/2014) from the Mayor, submitting the veto of Bill No. 2546, Draft 3, Relating to Real Property Taxes: Councilmember Kagawa moved to receive C 2015-04 for the record, seconded by Councilmember Kualii.

Council Chair Rapozo: This item is now on the table for discussion. Mr. Kolenda has now arrived, so let us recess this matter right now and we will have Mr. Kolenda step up for his interview.

There being no objections, the interview of Donald G. Kolenda was taken out of the order.

There being no objections, the rules were suspended.

INTERVIEWS:

BOARD OF REVIEW:

- Donald G. Kolenda – Term ending 12/31/2017

DONALD G. KOLENDA: First of all, my name is Donald Kolenda. I have been a resident of Kaua'i for one (1) year now. My wife and I moved here from Kansas City, Missouri. I was a Real Estate Agent in Missouri, prior to moving here, for five (5) years. I consider it an honor and a privilege to be able to serve on this board if you choose to pick me. I am also a member of the Toastmasters. I think it is very important to be able to communicate and be able to share your ideas with what is going on. I would like to be a part of the solution to a problem. Thank you.

Council Chair Rapozo: Thank you. Are there any questions for Mr. Kolenda. Councilmember Yukimura.

Councilmember Yukimura: Hi, Don.

Mr. Kolenda: Hi.

Councilmember Yukimura: I want to say off the top that Don gives very good speeches in Toastmasters.

Mr. Kolenda: Thank you.

Councilmember Yukimura: You are fairly new here, so you probably are not familiar with assessment processes or are you? Are you willing to learn?

Mr. Kolenda: I am willing to learn. I have always been learning-based and on the mainland, they did things a little differently over there. Mostly, I was approached by neighbors and people that wanted to fight for their taxes. I am familiar with market analyses and making sure that people are taxed to the degree that they should be and not overly taxed. I am familiar with that, and yes, I do agree that I am new to the process here; yet I am anxious to learn.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: Thank you, Donald, for putting your name out to help our County on this very important board. There are a lot of problems that have arisen since we recently removed our cap from our way of conducting Real Property Taxes. Now, we go with an *ad valorem* method, market value, and combined with exemptions that you may have for age and what have you. What municipality/County did you spend the most time recently before you came?

Mr. Kolenda: I would say Clay County in Missouri. Missouri and Kansas "butt" each other on the state line, so I was a licensed agent in both Counties, Kansas and Missouri.

Councilmember Kagawa: What kind of tax— were the tax systems similar like *ad valorem* type, based with exemptions in Kansas and Missouri?

Mr. Kolenda: Well, the difference here is that you have Homestead. Over there, they did not have the Homestead exemption, which that is a huge plus here for the people that live in the County. There, they tax by assessment, but it was not done yearly. It was done every two (2) to three (3) years

Councilmember Kagawa: Assessments were done every two (2) to three (3) years?

Mr. Kolenda: Yes.

Councilmember Kagawa: Basically, the big difference is being that here you have that three dollar (\$3) Homestead rate and other residents who do not qualify for the Homestead get that double or six dollar (\$6) rate or higher.

Mr. Kolenda: Yes. They did not have that where I came from.

Councilmember Kagawa: So a resident is a resident?

Mr. Kolenda: Yes, a resident is a resident and you did not get any advantages.

Councilmember Kagawa: So that was the big difference?

Mr. Kolenda: Yes.

Councilmember Kagawa: Other than that, it is pretty similar? They use market values, so sometimes every two (2) years you assess, it could fluctuate based on sales in your area? Do they use comparables?

Mr. Kolenda: Yes.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Thank you. Are there any further questions? I appreciate you stepping up. I think you will quickly find that there is a lot of concern about assessments and how properties are assessed here on Kaua'i. The way our law is setup, the assessor really has the advantage. There is huge margin of error that he can error within this window and nothing can be done about it. I am hoping that... we have the experience like yourself and Ms. Caspillo, people in the industry that can offer some suggestions. Obviously, your responsibility is limited to the disputes of the assessments, but I would also encourage you folks, especially someone like you who came from another jurisdiction, as Mr. Kagawa has pointed out, that you offer some suggestions to us or me on how we can make this system better.

Mr. Kolenda: Yes. I think more than anything, if people realize that they have a voice— it is just not taxation without representation. That is the big thing. People do not mind paying taxes, as long as they know that it is fair.



Council Chair Rapozo: Right. We are hoping to start that journey to bring fairness and equity back to taxing. Thank you.

Mr. Kolenda: You are welcome.

Council Chair Rapozo: We will vote on your nomination at next week's Council Meeting.

Mr. Kolenda: Thank you for your time.

Council Chair Rapozo: Thank you. Anyone in the audience wishing to testify on Mr. Kolenda's nomination? If not, thank you very much. You will be hearing from our Staff next week. We did the Consent Calendar, but I failed to ask for public testimony. Bear with me. So at this time, I would ask if anyone wishes to testify on the Consent Calendar item, C 2015-03.

SCOTT K. SATO, Council Services Review Officer: We have one (1) registered speaker, Ken Taylor.

Council Chair Rapozo: Thank you, Mr. Taylor. I will suspend the rules. Please state your name for the captioner.

There being no objections, the rules were suspended.

Mr. Taylor: Chair and Members of the Council, my name is Ken Taylor. I wanted to speak on this issue in reference to the Puhi Metals Recycling Center. The "top-heavy management" managed the operation of the Public Works Department cost the County in 2013 more than two million dollars (\$2,000,000). The white goods operation that handles abandoned cars, washers, driers, and refrigerators was started during Kusaka's Administration. This operation is managed by the Head of the Solid Waste Division, who reports to the (inaudible) in charge, and the Wastewater and Solid Waste Divisions, who reports to the County Engineer and Deputy County Engineer. The two million dollars (\$2,000,000) plus charge was recorded as a provision in the damage done on the leased Grove Farm lands situated in Puhi at Puhi Road. The County Council is charged by the Charter to be the general overseer for the people making certain that the people's tax money is spent wisely. Did the County Council, under Chairmanship of Jay Furfaro, have these operating and fiscal problems agendaed to be discussed in the open, so that the public was made aware to participate in the decisions? Or did the Council Chair, who solely determines what is agendaed, decide that it is an Executive Session item, which shielded this mismanagement from public knowledge? Did the Council recommend that these managers be reprimanded? I think that this issue has gone from two million dollars (\$2,000,000) to close to four million dollars (\$4,000,000). I think it is an item that needs to be brought to the table for full discussion and disclosure to the public, and I think it is your responsibility to bring that forward. Thank you.

Council Chair Rapozo: Are there any questions for Mr. Taylor? If not, thank you very much. I agree with you. Anyone else wishing to testify? If not, the meeting is called back to order. Thank you very much. We will move onto item C 2015-04. There was a motion to receive and a second. Councilmember Kaneshiro.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kaneshiro: For the record, I just want to say that I will be seeking an advisory opinion from the Board of Ethics regarding my participation in this matter. Until then, out of an abundance of caution, I would like to see if I could recuse myself and not participate in the discussion until I can get the answer from the Board of Ethics.

Council Chair Rapozo: Thank you very much. Let the record reflect that Councilmember Kaneshiro will be recusing himself from the discussion on Bill No. 2546, Draft 3, and any related communications. Councilmember Kagawa.

*(Councilmember Kaneshiro was noted as recused from Bill No. 2546, Draft 3, at 10:00 a.m.)*

Councilmember Kagawa: In looking for a direction from Councilmembers, I really wanted to take the ADU Bill at 10:15 a.m. If we plan to spend a lot of time on the communication we are on now, I would suggest that we just take it after the 10:15 a.m. period. Councilmember Yukimura could prepare for whatever she wanted to ask. I think we announced that that was our plan. I did not expect us to even get to this part of the agenda with all of the interviews that were scheduled. We are ahead of the game in a good way; however, I do not want this lengthy discussion on the decision to override or sustain the Mayor's veto to interrupt with the original plan to take the ADU Bill at 10:15 a.m. Thank you, Chair.

Council Chair Rapozo: We will not interrupt that. We will recess this Council Meeting at 10:15 a.m. and move into the Committee Meetings, so let us have as much discussion as we can between now and 10:15 a.m. Whatever is leftover will be done after the Committee Meetings. Councilmember Yukimura.

Councilmember Yukimura: Thank you. I would like to ask that the County Attorney come up and let the rules be suspended.

Council Chair Rapozo: Thank you. If there are no objections, the rules are suspended.

There being no objections, the rules were suspended.

MAUNA KEA TRASK, County Attorney: *Aloha.* Good morning, Honorable Chair and Councilmembers. For the record, Mauna Kea Trask, County Attorney, County of Kaua'i.

Councilmember Yukimura: Thank you, Mauna Kea, for being here. In reading the Mayor's message with his objections to the Bill, I do not see that there are any real legal issues with the Bill and it appears to me that his issues are mainly public policy considerations. I did want to get, as the County Attorney, your opinion on this. Are there any legal issues with respect to this Bill?

Mr. Trask: Can you elaborate further by what you mean when you say "legal issues?"

Councilmember Yukimura: Is the Mayor saying that there are parts of this Bill that are illegal?

Mr. Trask: Regarding that, I will let the Mayor's communication rest. It says what it says. I do not know how to...

Councilmember Yukimura: I want to know whether there are any legal issues with this Bill.

Mr. Trask: Again, I do not want to go back and forth. As far as legal issues, can you elaborate further with what that means? It is kind of broad.

Councilmember Yukimura: No, that is my question.

Mr. Trask: I do not know how I can answer that question. Sorry.

Councilmember Yukimura: You are the County Attorney, Mauna Kea.

Mr. Trask: Correct. So legal issues, how I would define...

Council Chair Rapozo: Hang on, Mauna Kea. If we have a question of the legality, that should be sent over in writing and get an opinion, as we always do. To ask the County Attorney to create an opinion right now, two (2) minutes after we opened the item, I think is unfair. I do not expect you to create an opinion. If Councilmember Yukimura has a question of the Administration's opinion on whether it is legal or not, we should have someone from the Administration here, and not the County Attorney. Did the County Attorney issue an opinion for this Bill?

Mr. Trask: The County Attorney's Office issued a few opinions on this Bill, one of which was released. Pertaining to legal issues, I guess generally, we would rest... this was authorized for public release at the November 19, 2014 Council Meeting under C 2014-290, regarding a July 29, 2014 memorandum by Councilmember Yukimura. It discusses—it says what it says—it discusses legal issues, but the questions and responses on those legal issues are what they are, so I guess there are legal issues. But without further elaboration upon whether it is beyond that, I do not know. There is a released opinion that can be found at the Council Services Office.

Councilmember Yukimura: Mr. Chair, when I ask for legal issues, I am not asking for an opinion on the legal issues. I am just asking whether there are any legal issues that indicate that this Bill might be illegal in any way. The reason I am asking it is because I work closely with Mona Clark of the County Attorney's Office to make sure that my amendments were legally sound. I do not read the Mayor's communication to indicate any legal issues, but I want to have that verified that these are mainly policy considerations, which are valid reasons for either sustaining the veto or not sustaining the veto. I just want to clarify for the public and for the Council that we are really not dealing with any legal issues in this matter.

Mr. Trask: Regarding your questions to the County Attorney's Office that were answered by Ms. Clark—again, the opinion is there for public consumption. It says what it says. It is maybe two (2) or three (3) pages long. The characterization of the Mayor's statement, I think, is a question more

properly addressed to the Mayor. He made the statement what he meant by it. As far as legality, I do not think the legality was broached in the release of the legal opinion.

Council Chair Rapozo: Mauna Kea, is the opinion that you are reading from the original draft of the Bill? Not from the amended version of the Bill? That opinion was rendered and released prior to Councilmember Yukimura drafting her amendments, so it is different. Again, let us discuss what is on the floor, which is the amended Bill that was vetoed. We did get an opinion; however, that was not released. I am not going to allow that to be discussed today because it has not been released by the Council. Let me just read—I do not know if anyone from the Administration is here. I would assume that they would be because it is kind of important for a veto.

Councilmember Yukimura: Mr. Chair, I asked for the Administration to be here; however, I was told my Staff that you wanted a short meeting. So I said I just wanted the legal person here and we would have the Mayor's Office here on the meeting on the 17th.

Council Chair Rapozo: Well, I always want a short meeting, but that is not going to prevent— If I am the Mayor and I am proposing a veto, then I would be here. It is not whether I want a short meeting or not. I want the shortest meeting possible. I did not say “no” to the Administration being here.

Councilmember Yukimura: Well, good. Maybe we can have them over here.

Council Chair Rapozo: If, in fact, what you are asking— let me just read what the Mayor has written for the public because they are wondering what the heck we are talking about. The Mayor makes it very clear in my opinion. It says, “While it is clearly in the County's scope of authority to establish and maintain a system for taxation over property on Kaua'i, I find that this Bill is poorly crafted. It disincentives certain forms of agricultural production and it would be difficult and costly to implement and enforce. Furthermore, key terms contained in the Agronomics Bill are not clearly defined and do not reflect the regulatory realities that currently exist at the Federal and State levels of government.” He never mentions a legal issue. It is a policy issue. The Mayor is saying, “It is a poorly crafted bill. I do not think we are going to be able to enforce it and it is going to be very costly. So for those reasons, I am vetoing the Bill.” Now it is in our hands. If we agree with the Mayor, then you vote accordingly. But at the end of the day, it was never brought up as a legal issue. So I guess for me, Councilmembers should not be saying, “It is a legal issue and that is why I am supporting the veto.” It is a policy issue and a policy decision. We are going to recess at 10:15 a.m., so maybe can call across and have someone present later in the day when we have a better idea of when this discussion will pick up.

Councilmember Yukimura: Mr. Chair, that is all I wanted the County Attorney to confirm. Thank you.

Council Chair Rapozo: The County Attorney is going to determine the legal issues. The Mayor needs to determine the policy issues. Councilmember Kagawa.

Councilmember Chock: As long as we can get the Administration here to represent what it is that is being proposed.

Council Chair Rapozo: Thank you very much.

Mr. Trask: Thank you.

Council Chair Rapozo: Is there anyone who wishes to testify on this matter while the rules are suspended? If not, thank you very much. Any further discussion? Councilmember Kagawa.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Is the plan to recess this item so that we are going to talk about it when the Administration is here or are we going to...

Council Chair Rapozo: Again, I did not believe that we could not have any discussion or debate on the motion to lay on the table, so if that is the case, then we will keep this item open and have the discussion on the communication. Let us do it that way. Then when we get the motion to lay on the table—just for the public's information—Councilmember Yukimura, can you turn off your mic?

Councilmember Yukimura: Sure.

Council Chair Rapozo: Thank you. The motion to lay on the table takes no action today. We need to formally place the veto on the table and we cannot take action between five (5) to thirty (30) days. Nothing will happen today. We will put it on the table as a formality and a discussion will happen when we set it on the agenda. Just so that the public understands, we will have all of the discussion on the communication. When we get to the motion to lay on the table, there will be no discussion by Councilmembers. Obviously, we will not prohibit the community from testifying. It is now 10:10 a.m. We will recess the Special Council Meeting until the Committee Meetings are done. Thank you.

There being no objections, the meeting recessed at 10:10 a.m.

The meeting reconvened at 1:58 p.m., and proceeded as follows:

Council Chair Rapozo: When we left off, we were on item C 2015-04, which is the communication from the Mayor submitting the veto of Bill No. 2546, Draft 3, relating to Real Property Taxes. Councilmember Kaneshiro is recused. Councilmember Yukimura.

Councilmember Yukimura: Can we suspend the rules and have Steve Hunt up, who is representing the Administration?

Council Chair Rapozo: If there are no objections, the rules are suspended. Mr. Hunt, you may come up.

There being no objections, the rules were suspended.

STEVEN A. HUNT, Director of Finance: Steve Hunt, Director of Finance. I have nothing prepared, but I am happy to take questions.

Councilmember Yukimura: Just to confirm that the Mayor's main concerns, as stated in this communication that is before us, is primarily policy issues. Is that right?

Mr. Hunt: Unfortunately, I do not have the communication in front of me.

Councilmember Yukimura: Can somebody give him a copy? Have you read it?

Mr. Hunt: Yes.

Councilmember Yukimura: Okay. Yes or no?

Mr. Hunt: It seems to be yes, mostly policy.

Councilmember Yukimura: Okay. His concern is about— well, explain his concerns, please.

Mr. Hunt: I think there are many. One is whether the term "biotech" and what actually the seed companies are doing is really any different from a form of diversified agriculture. So the Mayor wanted to come out very strongly that he is supportive of agricultural efforts and seed companies are a form of diversified agriculture. I think another concern that was somewhat pressing was the language that referred to "regulated." Our understanding is that most of the, if not the majority, probably even less than five percent (5%) of the actual crops that are in production in the field, are actually regulated. The vast majority of the parent seed is actually deregulated, so the concern is, are we enforcing just on the five percent (5%)? Some other concerns that had to do with the definition of a parcel was that it was unclear that— I think you might have addressed this in your amendment, which I have not seen, but when you are dealing with a parcel, it is the total parcel and you can have crop rotation. So if you have adjacent plots: one being a regulated parent seed; another one being an organic; another one being diversified agriculture; and another one being cattle; all within the same parcel, if it is the parcel that is being effectuated with this biotech as opposed to portions of— that was an issue. Then of course the stacking where you have rotation, you could have a portion of that regulated biotech crop during a portion of the year, but using that same plot and being rotated out for, say if it was six (6) months out of the year with a regulated and another three (3) months with a deregulated and another three (3) months with sweet potato. That portion based on the Bill would be as a regulated biotech for the entire year. That was another concern. "How do you encourage the crop rotations and cooperation with some of the smaller farmers if they are going to be assessed as biotech for the full year?"

Another concern had to do with the valuation; not just identifying those areas that are regulated and finding them if they are moving, but the valuation technique capitalization of vacant land leases is challenging because they can be manipulated. You can actually have a lease for one dollar (\$1) a year, but stick everything into Common Area Maintenance (CAM) with very high CAM costs, so even gaining that access, the Bill itself, I believe, asks for leases only for the biotech, but does not require that of other diversified, so how do you compare the leases? If you are not

getting information on the non-biotech leases as a base line to compare with, how do we set the rate differentials? That was a concern for implementation as well.

Then of course, unintended consequences— a lot of the water systems like reservoirs, ditch ways, and roads are currently being maintained by the seed companies and to the benefit of some of the smaller farmers that co-utilize that, so the issue is if they are not here, who would pick up the slack, and we thought it was more of a “punitive bill” than necessarily a “fairness bill.”

Councilmember Yukimura: If they are not here— let us start with that one. Was there any evidence or testimony that this Bill would put them out of business or have them move?

Mr. Hunt: I cannot speak to that. I was not here for all of the testimony.

Councilmember Yukimura: Well, are you aware of any testimony?

Mr. Hunt: I do not think anyone said they were going to shut the doors, but I know a lot of them expressed concerns.

Councilmember Yukimura: About?

Mr. Hunt: The Bill... the revenue... the additional taxes that could be levied.

Councilmember Yukimura: They expressed concerns of the impact being that they would have to leave.

Mr. Hunt: I have not heard that, no.

Councilmember Yukimura: Okay. In terms of their definition of parcel and the various uses on it, I think we asked you whether that could be addressed by rules and regulations.

Mr. Hunt: Depending...

Councilmember Yukimura: Because based on the master lease, right?

Mr. Hunt: Right. I would have to check whether you can define a parcel where something that has already been defined as a parcel elsewhere. I do not know for the specific enforcement of this particular bill whether you can have an alternative definition. You may be able to, but I would need to check because I am not an expert in that area.

Councilmember Yukimura: If you go by the master lease— we are talking about the difference between master leases and subleases, right?

Mr. Hunt: Okay.

Councilmember Yukimura: Because this Bill, if it deals with regulated crops, would not be affecting pasture or diversified crops that are not biotech crops.

Mr. Hunt: Yes, not unless they happen to do crop rotations on the same plots where the regulated occurred.

Councilmember Yukimura: But they would be through subleases.

Mr. Hunt: They would be through subleases, yes.

Councilmember Yukimura: Meaning that the seed companies would be controlling the lease and would define the value of their lease based on all of these issues. We are not going to try to break that down.

Mr. Hunt: Correct. I do not know enough about the leases and how they are structured themselves, and whether even subletting is an option in the master leases. Some may have restrictions to that as well. I cannot speak to that.

Councilmember Yukimura: Right, so if they are using rotated lands, the main purpose is going to be for the biotech crops and they would get farmers with licenses or leases to do the fallow part.

Mr. Hunt: To me, aside from sort of the distinction between biotech and diversified, which again, arguably could be another type of diversified use. I think the bigger issue is the amount of regulated lands that are being used. I am hearing less than five percent (5%) on all production on Kaua'i that is in the seed industry is regulated. The majority of their parent seed is deregulated.

Councilmember Yukimura: I think that is the information that I recently received, too. In that case, under the Bill, would it not then be treated as non-regulated and the Bill would not even be covered?

Mr. Hunt: Correct. Now we are looking at ninety-five percent (95%) of the seed company being diversified agricultural and five percent (5%) being under the biotech, which watered-down and defeats the Bill. The Bill now would be just on a very, very small portion, which from a tax revenue standpoint, for us to continually track and find out where that is being rotated and doing all of the additional work and collecting leases is not even going to be worth the minuscule amount of additional revenue that may be generated.

Councilmember Yukimura: Right.

Mr. Hunt: Remember that the seed companies are also paying a tremendous amount of taxes.

Council Chair Rapozo: Steve, let me stop you right there. Let us do a ten (10) minute caption break.

There being no objections, the meeting recessed at 2:08 p.m.

The meeting reconvened at 2:19 p.m., and proceeded as follows:

Council Chair Rapozo: Mr. Hunt and Councilmember Yukimura, you may proceed.



Mr. Hunt: Just to continue the train of thought, the issue had to do with the amount of deregulated lands, which is the majority versus the regulated. I just wanted to emphasize, although there could be on that five percent (5%) or so additional revenues by going this approach, it probably did not warrant the cost of potential implementation in doing that. I just also wanted to recognize that we are only talking about the areas that are dedicated. They also have a lot of lands that are undedicated and they are paying full market taxes on. Those include some of their actual facilities that are built, buildings that are paying commercial rates or industrial rates. I believe it is well over one million dollars (\$1,000,000) in annual taxes that come in for their facility. It is not just the land, but their contribution in taxes have been through their improvements that they built here, which smaller farmers probably would not have built such large scale facilities, so we do reap the benefits of that, if you will, on facility taxes.

Councilmember Yukimura: Thank you. The Mayor's message also said that "it would be difficult and costly to implement and enforce." Can you explain that?

Mr. Hunt: We do not have a breakdown of cost-benefit, but I think once we started realizing that the amount of regulated lands were going to be so small and that the information that was represented as being readily available, that we just need to go to a website or somewhere to find out who was regulated or registered for that was not as available as we thought and it became sort of a "hunt-and-find" type of a method, which is not very efficient, or you are relying solely on the volunteering reporting, if you will, of the people that are coming in for this. In terms of compliance and enforcement, it probably well outweighs the benefits of any additional revenue that we were getting on that small portion of regulated lands.

Councilmember Yukimura: I see. It is a relative issue of cost and difficulty. If it were on the majority of the lands, then it would be more worthwhile.

Mr. Hunt: Yes. We did some hypotheticals on what the value of additional taxes may be. I know one of the numbers that was thrown out was five hundred thousand dollars (\$500,000), but that is original agronomics, which means that they all go to fair market value. Under biotech one, again it is somewhat of a moving target because we do not have the information, but assuming it was double, going from a two thousand (2,000) an acre assessment for diversified for four thousand (4,000) an acre— that was just including all of the lands that are being in this category. We estimated roughly a little fewer than two hundred fifty thousand dollars (\$250,000). Again, we found out that the majority are already deregulated. A cost-benefit did not even really seem to be worth the while anymore.

Councilmember Yukimura: Understood. Thank you very much.

Council Chair Rapozo: Thank you. Councilmember Chock.

Councilmember Chock: Steve, thank you for being the representative here today. I think for me, part of what concerns me is that we went through this process, and up until we took a vote, it seemed to me like we had most of our "t's crossed" and "i's dotted," so it is a little bit surprising to hear some of what was represented in the communication as was mentioned in requests earlier about the legal flaws. Our County Attorney, at this time, cannot speak on it, but it did come from the Administration, so I was specifically wanting to know what those legal

flaws from the Administration can be identified moving forward? Certainly, our Council has our own part in the process that we could have done something better. I feel like we need a little more help, given that this has come full circle to be vetoed.

Mr. Hunt: I am uncomfortable speaking about any legal about legal flaws because I am not a practicing attorney and if there is conflict, I would certainly ask someone else from the Attorney's Office to speak to the legal issues. Certainly, just from an implementation standpoint, there was a lot of reliance on information provided by the body about what was regulated and deregulated. I think that really kind of came to a head as this thing moved on. I think sort of the technical crafting of the language probably could have been done better and maybe involve some of the players of the industry to find out more about the industry itself.

Councilmember Chock: Absolutely. I totally agree. I guess where I want to go more in the discussion is okay, "There is some more work to be done. Where can we do? Where should we go? What can we get covered?" If you can represent that further, in terms of what the Administration's Tax Office is willing to or would like to see happen. That is what we need.

Mr. Hunt: That is a larger policy. I will not go on record for what the Mayor thinks about that.

Councilmember Chock: We need the right representation in order to get the answers that we need to move forward. Thank you for being here, but we need more. Thank you.

Mr. Hunt: Understood.

Council Chair Rapozo: Any more questions for Mr. Hunt?  
Councilmember Kualii'i.

Councilmember Kualii'i: Steve, thank you for being here. Actually, my questions are real property tax-related and I am going to submit them to you, but I will ask if you can respond quick enough so that I can use the information for next Wednesday's vote. But you did send a memorandum to Councilmember Chock via Managing Director Nakamura and there was a document attached, which was maybe fifty (50) plus pages long and it has all the different parcel identifications, owner names, land area, market land value, and agricultural land value. Can you provide this electronically, so can I do some analysis before next Wednesday?

Mr. Hunt: Sure.

Councilmember Kualii'i: Probably tonight or tomorrow, I will submit a couple of questions as well.

Mr. Hunt: Okay. If it is going to come to me, just so that everyone is aware, I am leaving for surgery on Friday and I will be out for about two (2) weeks. I can respond to whatever I can tomorrow or today, but I will be out for a while.

Councilmember Kualii'i: It is some simple stuff. Thank you.

Council Chair Rapozo: Thank you. Are there any further questions for Mr. Hunt? Councilmember Kagawa.

Councilmember Kagawa: Steve, I think I asked this before. Just to reiterate, is there any other County in the State that uses lease rents for agricultural properties as a basis of market or assessed value?

Mr. Hunt: None that I know of within the State of Hawai'i; none of the three (3) other Counties are using it to my knowledge.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Any other questions for Mr. Hunt? If not, thank you very much, Steve. Good luck with your surgery. It is your shoulder? Okay. You can still work with shoulder surgery. Is there anyone else in the audience wishing to testify on this matter? If not, the meeting is called back to order. Let us have some discussion. Councilmember Yukimura.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: Chair, I want to thank you and the Members for allowing this discussion and information. When I look at the Charter and the requirement to lay the vetoed bill on the table for five (5) to thirty (30) days, it seemed like there was an intention that the Council give enough time to look at the objections of the Mayor and to understand them before just acting on a bill that has been returned because it has been vetoed. I appreciate the discussion and Steve's provision of information. I think I am ready to vote to lay the bill on the table.

Council Chair Rapozo: Thank you. Anyone else? This will come up on the 17th, which is next week. At that time, we will take the vote. Again, I will reiterate for the public that is watching, and we can make the Mayor's letter available for anybody who wants it, but he makes it real clear. Again, I am not going to read what I read earlier, but I will read the paragraph that proceeded what I read earlier. He said, "Just two (2) days ago, I took the oath of office, which requires me to amongst other things: uphold the Constitution of the State of Hawai'i. Article 11, Section 3 of the Hawai'i State Constitution states, 'The State shall conserve and protect agricultural lands, promote diversified agriculture, increase agriculture self-sufficiency, and assure the availability of agriculturally suitable lands.' After studying this Bill, it is my conclusion that it does not achieve these goals, and in fact, impedes the promotion and expansion of diversified agricultural on Kaua'i." I think he sums it up. It is not a legal issue; it is a policy issue. From what I am reading from the Mayor, he basically believes that this Bill really conflicts with the State Constitution and I tend to agree with him. I will be voting to support the veto next week. Councilmember Chock.

Councilmember Chock: Just one more thing in terms of where I think that we might be or need to put some attention to is just some of what was I think the driving force behind the intention of this Bill, which is to create more equitable access to agricultural lands where leased properties are being valued at a higher rate. Perhaps, this is not the venue for it; however, I think that it behooves us to continue to look for opportunities so that our small farmers and others who need access will not be outbid by other companies in the future. Thank you.

Council Chair Rapozo: Thank you, Councilmember Chock.  
Councilmember Kagawa.

Councilmember Kagawa: I just have a process question for the Chair or Mauna Kea. So next week, we will vote on the veto on whether to override it or not. I am just looking at the scenario. If Councilmember Kaneshiro is recused and remains recused, what would be the necessary number of votes to override the veto. I see the Clerk saying five (5).

Council Chair Rapozo: Yes, because the way the Charter reads, it is of the total membership, which is seven (7). So regardless of who is absent or recused, for the veto, you need the supermajority of the total members of the Council, the body, which is seven (7) members.

Councilmember Kagawa: So the recused vote does not go anywhere?

Council Chair Rapozo: It does not affect the supermajority for a veto override.

Councilmember Kagawa: Thank you, Chair.

Council Chair Rapozo: If I am wrong, somebody please correct me. Thank you. With that, I will entertain the motion to Lay the Veto on the Table.

The motion to receive C 2015-04 for the record was then put, and carried by a vote of 5:0:1:1 (*Councilmember Hooser was excused and Councilmember Kaneshiro was recused*).

Council Chair Rapozo: We will do the Auditors at 2:30 p.m. like we promised, so let us go to item "G," which is the Bill to Lay on the Table.

#### G. BILL TO LAY ON TABLE:

Pursuant to Section 4.03A of the Kaua'i County Charter, the Council must enter the objections of the Mayor in the journal of the Council and "Lay the Veto on the Table." The Council may, after five (5) and within thirty (30) days after the Bill has been so returned, reconsider the vote upon the Bill.

This agenda item is only for the purpose of laying the veto on the table. The Council will NOT be voting to override or sustain the Mayor's veto at this meeting.

Any future Council Meeting to override or sustain the Mayor's veto will be scheduled pursuant to Hawai'i Revised Statutes (HRS), Chapter 92.

Bill No. 2546, Draft 3 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAXES (*Agronomics / Agricultural Use Definition / Reporting*): Councilmember Yukimura moved to lay the Mayoral veto of Bill No. 2546, Draft 3, on the table, seconded by Councilmember Kagawa, and carried by the following vote:

FOR MOTION:

Chock, Kagawa, Kualii,  
Yukimura, Rapozo

TOTAL – 5,  
TOTAL – 0,

AGAINST MOTION:

None

EXCUSED & NOT VOTING:  
RECUSED & NOT VOTING:

Hooser  
Kaneshiro

TOTAL – 1,  
TOTAL – 1.

Council Chair Rapozo: Thank you very much. Can we get Councilmember Kaneshiro back in. Let us go to the next item, please.

*(Councilmember Kaneshiro is noted as present at 2:32 p.m.)*

### COMMUNICATION:

C 2015-05 Communication (12/02/2014) from Council Chair Rapozo, requesting the presence of the County Auditor, Director of Finance, and representatives from N&K CPAs, Inc., for discussion relating to the Comprehensive Annual Financial Report (CAFR), Single Audit Reports, and Management Advisory Report for the Fiscal Year Ended June 30, 2014: Councilmember Yukimura moved to receive C 2015-05 for the record, seconded by Councilmember Kualii.

Council Chair Rapozo: We have external auditors, N&K CPAs, Inc.: Blake Isobe, who is with the Assurance Services Division; John Bautista, who is the Senior Audit Manager; and Chad Naganuma, Audit Supervisor, who is just observing today. I will suspend the rules. Please identify yourselves for the captioner. What I would like to see is if you could go through your presentation in its entirety. Councilmembers, jot your questions down. Then we will come back to the questions once the presentation is done.

There being no objections, the rules were suspended.

BLAKE S. ISOBE, Principal, Assurance Services Division: I am Blake Isobe. I am the principal at N&K CPAs, Inc. I have my Senior Audit Manager John Bautista, who is also in charge of the audit of the County. We issued three (3) reports this year, similar to the past couple of years. The first one is the Comprehensive Annual Financial Report (CAFR), which are the financial statements of the County. We also issued a Single Audit Report, which is an audit on the federally funded programs. We also issued a Management Advisory Report, which are some additional findings that we feel should be communicated to the Council. The Management Advisory Report is not a required report, but it is just a subset of the audit and additional things that we did note during the audit that we felt necessary to communicate.

Starting with the CAFR, I would like to point out on page 8 that this is the Certificate for Excellence in Reporting that the County has received for the past twenty-one (21) years. There are some requirements; not just preparing the CAFR in accordance with standard reporting and standards, but also to submit it by December 31st. The County has made this for the past twenty-one (21) years. The CAFR is broken up into different sections and I just wanted to point out that there is the introductory section and the (Management Discussion & Analysis (MD&A). That is also part of the financial statement that is not audited. There is also a statistical section all the way in the back that also provides the user additional information about the County that is also unaudited information, but also provides background and more information for the users.

I would like to move on to pages 11 through 13. Pages 11 through 13 is our Independent Auditor's Report. The report is broken down into different sections that kind of describe the audit: manager's responsibility for the financial statements

and our responsibility for conducting the audit. On page 12, we have our opinion, so we provide our opinion on the financial statements and here we say that it is what in audits terms is an "unmodified opinion." It is a clean opinion that the financial statements are fairly presented. There is something new this year— I guess because you guys have not seen it last year, but there was one a few years back. It is on page 13. There is an adjustment to prior period financial statements. I can get into that in a little bit as to why there is a prior period adjustment. Other than that, that is our Independent Auditor's Report on the financial statements.

I would like to go the Government Wide Financial Statements, which start on page 25. When looking at the statement on that position, or this is like the balance sheet of the County— there is some new presentation where there is these things called "deferred outflows and inflows of resources." This is the implementation that I was talking about. It is the new Government Accounting Standards Board (GASB) statement number 65 that was required to be implemented for this current fiscal year. A little background on that: implementation— it created these new categories or deferred outflows, which are similar to assets, but they did not want to call it "assets." It is "a use of future resources" and the deferred inflow is almost what used to be called "deferred revenues," which are "revenues received in advance that are for future periods." The Government Accounting Standards Board did not want that to be continued to be presented within the assets and liabilities, so they created this new subset of assets and new subset of liabilities that are now carved out and presented separately within those two (2) sections. At the same time, one of the changes that affected the County was— bond issuance costs are no longer capitalized and amortized over the life of the bond. They are now considered "period costs" or expensed in the period that you incur them. The GASB also required retroactive application, meaning that had you to go and restate your financial statements for all the prior periods, and that is what resulted in the current year's restatement. So it is not where there was a mistake or error in the financial statements, but it was required accounting change that needed to be implemented in the financial statements. We have a note and you can refer to note 19 on page 89. We describe that there is an accounting change and that therefore, there was this restatement. It should not be seen as anything bad; it is that the County was required to implement this GASB for this period ended, so the County had to restate its net position as of the end of last year. Right off, the bond issuance costs of about one million two hundred seventy-six thousand dollars (\$1,276,000). We do not audit the Department of Water, but because the Department of Water is a component unit of the County, we also have that disclosure related to the Department of Water. There is a five hundred seventy thousand dollar (\$570,000) bond issuance cost that they were also writing off. There is also a restatement that is also contained in the note, but this is not related to the County as a whole. This is something that needs to be reported because it is part of the Department of Water's financial statements, which as a component unit, is still part of the CAFR; however, it is not part of our audit. The Department of Water's Auditors caught this and needed to have this restatement done within the Department of Water's financial statement. So there is another restatement, but that is not related to the County.

So looking back at the statement of net position or your balance sheet, your governmental activities and your business type activities— your governmental activities are your non-business type activities and it is just your regular governmental funds. Looking at your total assets and deferred outflows— you are at about seven hundred twelve million dollars (\$712,000,000) in comparison to the prior year, which is a decrease of about ten million five hundred thousand dollars

(\$10,500,000). In your business type activities, you are about one hundred million dollars (\$100,000,000), which is up about five million seven hundred thousand dollars (\$5,700,000). In total, your total assets and deferred outflows is about eight hundred twelve million dollars (\$812,000,000) or down about five million dollars (\$5,000,000). I want to point out that because a large portion of your assets are your capital assets, there is about twenty-one million dollars (\$21,000,000) that is depreciation, meaning just what is being depreciated on your capital assets. Without depreciation, your assets kind of did increase.

Another large decrease is sitting in your cash and investments. Right now, you are sitting at about one hundred thirty-six million seven hundred thousand dollars (\$136,700,000) in cash and investments, in comparison to about one hundred fifty-three million seven hundred thousand dollars (\$153,700,000) in the prior year. That is down about eighteen million dollars (\$18,000,000). Part of that decrease is the fact that you guys were sitting on a lot of bond money and that spend-down of your bond proceeds, I believe it is the 2012 bond, is a majority of that use of your cash. There was about thirty-one million dollars (\$31,000,000) in capital outlays in both your government and business-type activities, so the majority of that use of cash is going to purchase capital assets.

So looking at your capital assets— in total, you are looking at a five million dollar (\$5,000,000) increase in both government and business-type activities each for a ten million dollar (\$10,000,000) net increase, net of your depreciation of about twenty-one million dollars (\$21,000,000). Down on your liabilities side, your non-current liabilities, which are all of your debt, accrued vacation, landfill costs, and claims and judgments. Right now, it is sitting at about one hundred ninety-eight million dollars (\$198,000,000). In the prior year, it was one hundred ninety-six million dollars (\$196,000,000), so there was a slight increase in there. A large part of that increase is a seven million five hundred thousand dollars (\$7,500,000) increase in your landfill liability. I have a slide later to kind of go over that. In total, looking at your net position— under governmental activities, right now, you are sitting at about four hundred seventy-six million dollars (\$476,000,000), of which about four hundred fifty-four million dollars (\$454,000,000) is investment in your capital assets; in comparison to the prior year of about four hundred ninety-four million dollars (\$494,000,000). For business-type activities, you are looking at seventy-seven million dollars (\$77,000,000), in comparison to a little over seventy million dollars (\$70,000,000) in the prior year.

Moving on to the next page on page 26— this is the income statement of the County. I would like to start off on your general revenues area. It is pointing out your increases in your tax revenues here. Your real property taxes this year is looking at about ninety-three million one hundred thousand dollars (\$93,100,000) in comparison to about eighty-two million dollars (\$82,000,000) in the prior year. That is about eleven million one hundred thousand dollars (\$11,100,000) increase in the current year, and that is primarily due to the increase in the tax rates. The public service company tax is relatively flat at about four million four hundred thousand dollars (\$4,400,000) compared to about four million two hundred fifty thousand dollars (\$4,250,000) in the prior year. Franchise tax... same thing... kind of flat at four million six hundred fifty thousand dollars (\$4,650,000) versus four million seven hundred thousand dollars (\$4,700,000) in the prior year. Your fuel tax is about four million five hundred thousand dollars (\$4,500,000) compared to about three million nine hundred thousand dollars (\$3,900,000). Percentage wise, it is kind of a significant increase and looking at it, you did increased the County fuel tax, which shows that six hundred thousand dollar (\$600,000) increase there.

Grants and contributions are pretty flat, similar to the prior year. Investment earnings going down as your investments are kind of going down as you spend down your bond funds. In total, your total general revenues are at about one hundred twenty million dollars (\$120,000,000). That is up about eleven million nine hundred thousand dollars (\$11,900,000). The majority of it, which I pointed out, was your increase in your real property taxes and your fuel taxes. The change in net position or your net income is a loss of about seventeen million dollars (\$17,000,000). Keep in mind that this statement does include your depreciation, which I had mentioned was about twenty-one million dollars (\$21,000,000) and also includes a two million three hundred thousand dollar (\$2,300,000) transfer to your business-type activities, so that is twenty-three million dollars (\$23,000,000) in amounts that are included in that loss. I have a slide to kind of shows how revenues have looked and I think we brought this up in the past, how looking at the past five (5) years, revenues were kind of decreasing and kind of flat. I pulled the real property tax revenues when looking at your tax levies in the back. You have a statistical table, and this is where this information comes kind of useful on page 133. It shows your total tax levies and your tax collections there. You kind of see how it started off back in 2010 at about ninety-one million dollars (\$91,000,000) and kind of drifted down to about right under eighty million dollars (\$80,000,000) and now you are sitting back up at a ninety-one million dollar (\$91,000,000) levy.

As you know, the State capped your Transient Accommodations Tax (TAT), so it has been kind of flat. I believe you guys are anticipating an increase in the TAT... hopefully. In total, now looking at your total revenues, it has come back up and I know we had mentioned in the past—your revenues were decreasing and costs were increasing. This year, in looking at your expenses, it is relatively flat. On page 26, the one hundred eighty-four million dollar (\$184,000,000) in expenses is relatively flat compared to the prior year. I believe it was about one hundred eighty-five million dollars (\$185,000,000). Some of your expenses here in your general government, there was about a ten million dollar (\$10,000,000) decrease. Primarily, that is a six million dollar (\$6,000,000) decrease in your claims and judgments. There was a decrease in that liability versus... sorry... I might have mistyped that. Sorry. There is a decrease. Claims and judgments in the prior year—there was about a six million dollar (\$6,000,000) increase in just the liability versus in the current year, it is a net decrease of about three million dollars (\$3,000,000). That is primarily due to about one million nine hundred thousand dollars (\$1,900,000) in payments and a decrease in the estimated claims out there of about one million dollars (\$1,000,000). That is about almost a three million dollar (\$3,000,000) decrease in that liability itself that affects your general government expense. Highways and streets have an increase of about two million five hundred thousand dollars (\$2,500,000) and your culture and recreation is about two million three hundred thousand dollars (\$2,300,000). Also included in here is your increase in your landfill liability. In the current year, there is about a seven million five hundred thousand dollar (\$7,500,000) increase that on an accrual basis, you accrue that expense and record that additional liability in your balance sheet. That is one of the later slides and we can kind of look at that in a few minutes.

Moving on to page 52 of the CAFR, I wanted to point out there is that new accounting policy for that GASB 65, where it describes your deferred outflow of resources and deferred inflow of resources. This is kind of sort of what we went over that the County was required to implement, so there is a new accounting policy there. Another thing that I wanted to point out is your Hawai'i Employees' Retirement System (ERS) and your Hawai'i Employer-Union Health Benefits Trust Fund (ETUF) expenditures there. The disclosure on page 82— as you can see, the



County has been funding one hundred percent (100%) of what is called the "Annual Required Contribution (ARC) or the "ARC." I did want to point out that the State did pass that law in the beginning of Fiscal Year 14 that is going to require the Counties to make that one hundred percent (100%) contribution by 2019, so you folks making the one hundred percent (100%) at this point is pretty good.

This is the landfill liability. The disclosure starts on page 85 and it talks about your landfill closure and post-closure costs. I put the past three (3) years up, just to kind of give you the sense of where it has been going. In 2012, that liability was at about nineteen million eight hundred thousand dollars (\$19,800,000) and the capacity or amount used at that point was ninety percent (90%). At the end of last year, there was a jump of about twenty-eight million six hundred thousand dollars (\$28,600,000). Part of that was a five million dollar (\$5,000,000) required gas collection system that because it was ninety-five percent (95%) used, a large portion of that has to be accrued for within the liability. In 2014, there was additional costs that needed to be included in the post-closure costs and care for that gas collection system. When you look at the requirements to accrue your post-closure care, it is a thirty (30) year compliance period that you are looking at, so a small increase in that annual post-closure care then gets multiplied by thirty (30), and then by the percentage of capacity used. The GASB requires, as you are using that useful life, by the time you hit one hundred percent (100%) you are fully accrued for in that liability, so that you can take care of closing any post-closure costs that you are going to incur to close it. I think in the disclosure right now, you are looking at another four point one (4.1) years remaining on the landfill. I guess the increase in the capacity was actually because you got the Cell 2 lateral expansion approved. Those were some highlights that I wanted to point out in this year's CAFR.

Council Chair Rapozo: At that point, we will entertain questions. Let us take questions after each report.

Mr. Isobe: Yes. It is easier that way.

Council Chair Rapozo: Otherwise we will get lost in the shuffle. Any questions as it relates to the CAFR discussion presentation? You have two (2) Accountants here. Councilmember Kagawa.

Councilmember Kagawa: Thank you for the report. I am trying to make sense when you say that we are even or running closer to even. Can you help me walk through this? Our revenues totaled to about one hundred twenty million dollars (\$120,000,000). I am looking at page 26. We are saying that our expenditures totaled one hundred eighty-four million dollars (\$184,000,000). Is that accurate?

Mr. Isobe: Yes.

Councilmember Kagawa: So where is the missing sixty-four million dollars (\$64,000,000)?

Mr. Isobe: So you have charges for services of about nineteen million dollars (\$19,000,000) and those would be any fees that you collect.

Councilmember Kagawa: Okay.

Mr. Isobe: Twenty-three million nine hundred thousand dollars (\$23,900,000) in operating grants and contributions, and then another three million seven hundred thousand dollars (\$3,700,000) in your capital grants and contributions, so you have operating grants and capital grants.

Councilmember Kagawa: Okay. That is nineteen (19), twenty-three (23), and three point seven (3.7) so far.

Mr. Isobe: Yes.

Councilmember Kagawa: Because we are trying to add up to one hundred sixty-four (164). I am taking the general revenues and transfers of one hundred twenty million dollars (\$120,000,000) and I am looking at total government activities of one hundred eighty-four million dollars (\$184,000,000).

Mr. Isobe: You guys do have a seventeen million dollar (\$17,000,000) loss.

Councilmember Kagawa: Okay, so basically that parenthesis right there.

Mr. Isobe: Yes, seventeen million one hundred thousand dollars (\$17,100,000) in loss.

Councilmember Kagawa: So ideally if can close that gap with the revenues, we would be in much better shape.

Mr. Isobe: Yes. What I was trying to point out was that in your costs, you have your depreciation, which is just a paper estimate of your infrastructure, buildings, and the normal wear-and-tear and the lives depreciating down. Those costs are being included in the one hundred eighty-four million dollars (\$184,000,000) in costs, right about twenty-one million dollars (\$21,000,000) in depreciation, along with two million three hundred thousand dollars (\$2,300,000) that is being transferred out from your governmental activities into your business-type activities like Golf, Sewer, and the Housing Revolving Fund. Right there, that is about twenty-four million dollars (\$24,000,000) or twenty-three million dollars (\$23,000,000).

Councilmember Kagawa: Okay. Thank you. Second question.

Mr. Isobe: Sure.

Councilmember Kagawa: I talked to you a little bit outside, but I just wanted to point that out. I am looking at page 35. You show what is called the "variance with final budget positive," and the bottom line is fourteen million nine hundred sixty-one thousand dollars (\$14,961,000) and that is what we would call "the lapse?" Is that...

Mr. Isobe: That is your variance, which is your budget. So what it is comparing is your final budget to, and this is non-gap basis— you are taking your amounts that you actually expended and it is also including encumbrances, so your encumbrances year end on your General Fund is about almost six million dollars (\$6,000,000) at five million nine hundred thousand dollars (\$5,900,000).

Councilmember Kagawa: So you have to subtract that amount from the fourteen million nine hundred thousand dollars (\$14,900,000)?

Mr. Isobe: No, it is already taking it out.

Councilmember Kagawa: It is already taking it out, okay. So this is basically our surplus or...

Mr. Isobe: Excess budget.

Councilmember Kagawa: Yes. Theoretically, we could have reduced last year's budget by almost fifteen million dollars (\$15,000,000) if we wanted an even budget or can you not look at it that way? Is it a tough question?

Mr. Isobe: On paper, yes. That is the easiest way to say it. If the budget was exact, then yes, you over budgeted by almost fifteen million dollars (\$15,000,000) out of your one hundred nineteen million dollar (\$119,000,000) budget.

Councilmember Kagawa: Of course, the Administration would probably say that some of these amounts were actually supposed to have been spent, but for some reason or another was not expended in the year. So we may be looking at an actual number that is smaller than the fourteen million nine hundred thousand dollars (\$14,900,000), but nonetheless, still a significant amount that was over budgeted, theoretically.

Mr. Isobe: Yes, theoretically.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Thank you. Any other questions?  
Councilmember Yukimura.

Councilmember Yukimura: Can you explain what is deferred outflows and deferred loss?

Mr. Isobe: Okay. The deferred loss or deferred gain on refunding— this is all bond related. When you are trying to do a refunding on a bond, it is taking the difference between the costs that it is going to take to reacquire the bond and the actual carrying value or the amount that you guys have on the books left on that bond. That difference is either you have a gain or a loss. Typically before, this used to be grouped with your long-term liabilities. So with the bond, there would be that gain or premiums and your loss that used to be amortized over the life of the bond. But now, GASB did not feel that those were true assets or liabilities, and felt that they should be presented separately. It is not a true asset or not a true liability; it is just paper— I do not know how to explain it, but it is just on paper that is being amortized over the life of bond because typically, when you are going to pay a premium or you are going to have excess or gain or loss on the bond, you are willing to take that and offset of your interest, and that is why when you amortize it, you amortize it and include it in your interest expense.

Councilmember Yukimura: Okay.

Council Chair Rapozo:  
word that you said.

You do realize that we did not understand a

Mr. Isobe:

I was thinking that.

Council Chair Rapozo: I do not know how you can “dummy that down.” I do not understand it and I am not going to pretend that I do. I do not. The way I envisioned it was we used to be able to amortize it over the duration of the bond. GASB is now saying that, “No, you cannot do that and you need to put it at the time it was incurred or the time it was...” You used another term when you explained it.

Mr. Isobe: That was one thing. In the past, the cost to issue the bond was your bond issuance costs. Those used to go over the life of bond. Those now are expensed. This deferred loss and deferred gain on refunding is when you pretty much are trying to get defeased bond or... I do not know how to explain it.

Council Chair Rapozo: Let us do this for my benefit. Let us pretend that we have a bond for one hundred dollars (\$100) that we took out five (5) years ago. Can you use that as a scenario?

Mr. Isobe: Okay, so you had this one hundred dollar (\$100) bond that you have been making payments on and now it is eighty dollars (\$80). You have eighty dollars (\$80) in liability left, but it is carrying a higher than market interest rate, so there is going to be a premium that somebody will pay because it is going to kick-off higher interest than out there.

Council Chair Rapozo: Right.

Mr. Isobe: So that would be your gain. Let us say they pay you ninety dollars (\$90). That ten dollars (\$10) is your deferred gain, so that will now show as your deferred inflow.

Council Chair Rapozo: I got it.

Mr. Isobe: So the opposite way, if you have a lost on refunding, that will then show as an asset.

Council Chair Rapozo: Right. That makes it a lot clearer.

Mr. Isobe: Okay.

Councilmember Yukimura: It is sort of a balancing of the dynamics of the bond as it goes along.

Mr. Isobe: Yes.

Council Chair Rapozo: Because it is a moving target, right? The bond every year... not so much the bond itself, but the...

Mr. Isobe: Once you refund it, that is fixed. You know what you are already doing with it, so you are going to know how that is going to advertise over the life of the bond.

Council Chair Rapozo: Okay. Thank you.

Mr. Isobe: I am sorry.

Council Chair Rapozo: No, do not apologize. We are just not accountants. Some are.

Councilmember Yukimura: May I continue?

Council Chair Rapozo: Sure, Councilmember Yukimura.

Councilmember Yukimura: You mentioned under liabilities the claims and judgments and I do not know if I understood that.

Mr. Isobe: Okay. The County prepares a better summary of this in page 66. So on page 66, it shows the breakdown of your long-term liabilities, and within those long-term liabilities, you have your bonds, claims and judgments, landfill, capital lease obligations, along with your accrued vacation. So for "claims and judgments," that estimated claims/liability— instead of an addition this year, it was actually a reduction. Some of it was claims that maybe the County felt they needed to make an estimated liability for potential negative results that might come from it. But in the end, either there was nothing there or they are able to settle it for less. Those liabilities actually decreased by about one million dollars (\$1,000,000). There was about one million nine hundred thousand dollars (\$1,900,000) in claim payments, which took the overall claims and judgment liability from twelve million seven hundred thousand dollars (\$12,700,000) down to nine million seven hundred thousand dollars (\$9,700,000).

Councilmember Yukimura: Twelve million seven hundred thousand dollars (\$12,700,000) down to...

Mr. Isobe: Nine million seven hundred thousand dollars (\$9,700,000), going across the table.

Councilmember Yukimura: I see. Okay. Are these estimates or are these real?

Mr. Isobe: These are estimates. Some of your significant estimates in preparing the financial statements of the CAFR itself— this is one that involves judgment. You have to look at what is out there. We rely on Mauna Kea, who is just walking in, to put together what the County feels is out there as its exposure and come up with an estimated liability.

Councilmember Yukimura: What is "compensated absences?"

Mr. Isobe: That is your accrued vacation.

Councilmember Yukimura: Okay. That is not worker compensation or anything; it is accrued vacation?

Mr. Isobe: Yes. That is a solid number based off of what has been built up.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Thank you. For the claims and judgments, the reductions are a solid number, too, right?

Mr. Isobe: Yes.

Council Chair Rapozo: That is not an estimate; that is what we paid out.

Mr. Isobe: Yes.

Council Chair Rapozo: Thank you. Any other questions on the CAFR? Thank you. If not, we can move on to the next segment.

Mr. Isobe: The next report we want to cover is the Single Audit Report. Starting on page 6... pages 6 to 7 is our report on Internal Control Over Financial Reporting. This is a required report that we need to issue in accordance with government auditing standards. Similar here, it is broken down into sections, which describes what we do and what we are responsible for. On page 7, in the first paragraph, we did note two (2) findings that we consider to be significant deficiencies, and those are findings 2014-001 and 2014-002. We can go over those later. The next paragraph also notes that we did issue a management letter, which is in a separate letter dated December 1, 2014. The next report that I want to touch on is on pages 9 through 11. This is our Report on Compliance or what we consider our Single Audit Report on the major programs. On page 10 is our opinion that the County complied in all material respects with its major programs, which were considered those major programs in a little bit. I think in the past, we did have findings on the major programs and this year we do not have any. On pages 12 through 29, this is what is considered your Schedule of Expenditures of Federal Awards. This is a listing of all the different federal grants and awards that the County receives. On page 29, the total for the current year is twenty-four million seven hundred thousand dollars (\$24,700,000), in comparison to last fiscal year, which was about thirty million nine hundred thousand dollars (\$30,900,000). So there was a decrease of about six million two hundred thousand dollars (\$6,200,000) and majority of the decrease is in the prior year, you had three million five hundred thousand dollars (\$3,500,000) spent on this Kōke'e Road resurfacing and about nine million dollars (\$9,000,000) on the bike path project. These programs in the current year are down... I believe a lot of it was completed in the prior year. There was only about one hundred ten thousand dollars (\$110,000) on the Kōke'e and about one million four hundred thousand dollars (\$1,400,000) spent on the bike path, but there were other transportation programs similar to those that were increased in the current year. In the prior year, there was also a larger amount of Sewer, State Resolving Loan Funds that were reported about two million six hundred thousand dollars (\$2,600,000) for the Waimea Wastewater Treatment Plant. There was some increase in the current year in one of your United States Housing and Urban Development (HUD) programs. About three million six hundred thousand dollars (\$3,600,000) more was spent in HOME Investment Partnerships Program (HOME). That is about three million two hundred thousand dollars (\$3,200,000) more than you spent in the prior year, which was only about four hundred thousand dollars (\$400,000).

Moving on to page 33, this is like a snapshot that gives anybody a good overview of the Auditor's results. Like I had mentioned on the CAFR, the type of

Auditor's Report issued was unmodified or a clean opinion. We did not note any material weaknesses, but we did note those two (2) significant deficiencies that we can go over. There was no material non-compliance noted to the financial statements. On the federal awards side, we had no material weaknesses or significant deficiencies as identified over the major programs. We issued an unmodified opinion on compliance with those major programs and there were no other audit findings that were required to be disclosed in compliance with the A-133 or the Single Audit Act. It also lists all of the major programs. We had eight (8) major programs in the current year versus six (6) in the past. The determination of major programs is mainly based off of the size and the risk. This dollar threshold is a determination based on the amount of federal expenditures in the year. In the prior year, it was a little over nine hundred thousand dollars (\$900,000), but that was due to you having a lot more federal expenditures in the prior year. This year, it is about seven hundred forty-one thousand dollars (\$741,000). The last question, "Auditee qualified as a low-risk auditee?" That is "no" because a few years back, you did have a few findings on your major programs; therefore, this determination does not look back for a few years and until you have a couple years of clean audit reports, do you become a low-risk auditee. That helps in the risk criteria and the amount of major programs that need to be looked at, so hopefully in one (1) year or two (2), you can clear up and become a low-risk auditee.

Moving on to the first finding on page 34— let me touch on the differences. The types of findings that we issue: "material weakness" is deficiency or combination of deficiencies. On the financial reporting side or on the compliance side, it is a deficiency in internal control that would prevent or detect non-compliance in the federal side or a misstatement on the financial statement side. A "significant deficiency" is less severe, but yet, it is still something that we feel need to be reported, so deficiency or combination of deficiencies that are less severe than a material weakness, but yet, important to report to you. "Other reportable findings" are other types of findings on the compliance side that you are just not complying with, such as some of the federal requirements that need to be reported.

We will go on to the first finding on page 34, "Compile Vacation and Sick Leave Records Properly," which we consider a "significant deficiency." What we look at is your vacation records for your employees and here we noted twenty-five (25) instances out of a sample of sixty (60), where this is a finding that we had in the prior year, but it is a little bit different. In the prior year, what we had errors in were the employee logs not tying up to the full listing of the departments' employees. The department provides a listing of all employees and their vacation balances, and the logs were not supporting that listing. In the current year, what we noted was on the vacation log, vacation taken was not supported by the requests off for vacation, meaning in order to take vacation, you fill out a form and you get that approved and that supports the time off that is then logged into the logs. When we were looking for those forms, we noted twenty-five (25) instances where those were missing. That would be in either your vacation, sick, comp, or any time that they are looking to take off. I guess what we were pointing out is the record keeping did improve in some cases where at least now, everything ties in. But the actual support and proper record keeping for those forms to support what they wanted to take off and that they did request off was not properly maintained.

Council Chair Rapozo: It is *déjà vu*. It is a little different. My only question is you said sixty (60) samples, but you only list thirty (30) in your...

Mr. Isobe: The other thirty (30) worked out. In those departments, there were ten (10) employees that we looked at and we look at it for the whole year.

Council Chair Rapozo: So you only look at the three (3) departments?

Mr. Isobe: We looked at ten (10) employees from six (6) departments.

Council Chair Rapozo: So from three (3) departments, you did ten (10) and they were all good?

Mr. Isobe: Yes.

Council Chair Rapozo: What are those departments? I think they should get some credit.

Mr. Isobe: Okay. They were the Mayor's Office, Fire Department, and Transportation.

Council Chair Rapozo: Okay, so you checked ten (10) samples from each of those departments and they matched?

Mr. Isobe: Yes.

Council Chair Rapozo: This is like the fourth year that this is actually in here, maybe a little different, but it is the same thing. I believe it is the fourth or maybe even longer. I do not know what to say. Councilmember Yukimura.

Councilmember Yukimura: Now, the response from the Administration will be forthcoming. They have responses that you have in here.

Mr. Isobe: Yes. Page 40 is their response to this finding. So ultimately, I think what they are looking to is move away. It is a very manual process—the vacation logs and vacation forms are a very manual process. The current goal would be to migrate from the manual process to a more integrated system.

Councilmember Yukimura: They are working on such a system. I am surprised that is not in the answer or at least in skimming it, I did not see it.

Mr. Isobe: It is in the first paragraph.

Councilmember Yukimura: Yes, they are. The ultimate goal would be migration of the current manual processing to a fully automated online system. This has been an issue for four (4) years at least. I feel like I have been asking about it for ten (10) years. We need to have a report on when that system will be in place and what the progress is in getting that system in place. I see Steve coming up. It is over and over again and you do not want it to turn into an arterial deficiency.



Mr. Hunt: Steve Hunt, Director of Finance for the record. In the response itself, you can see that of the twenty (20) departments and agencies, we have been able to reconcile sixteen (16) of them. Before we can get to an automated solution, we still have to reconcile the last four (4) before we can go forward because if you do not have a starting point and you are starting with accrued vacation or sick that is incorrect, the automation is not going to help correct that. As we are moving towards that, that is obviously the goal. We have gone through procurement and actually have contracted the automated solution, which is a partner of SunGard, so it will be added in probably the end of Fiscal Year 2015, but should be implemented before the beginning of Fiscal Year 2016 with the departments that we are able to reconcile. We still may have some because of the complexity of some of the pay coding for Police and Fire in particular. It may take a little longer to setup the coding and reconcile that. I also want to make the distinction, as Blake said, that it is kind of a different finding. One is the reconciliation of the accruals, which did not match. As they said, they were coming closer to being tied now, but this is a record keeping issue where the timesheets that are being submitted, the half-sheets for the approved, are not accompanying those timesheets to be able to validate, so it shows as a sick day or a vacation day and is being recorded as such on the log, but it does not have the approval on the half-sheet accompanying it, and that is what we are addressing...

Councilmember Yukimura: (Inaudible) delving deeper into the process and finding out that it is the manual reporting that is a problem.

Mr. Isobe: I think in the prior, we also did note that these things were missing; however, that is why I was trying to separate into two (2) where we were noting both it not tying to the reconciliation and they were not being supported. Now, it is tying into their reconciliation and just these supporting requests off were missing. Half of it is solved and the other half still needs to be...

Councilmember Yukimura: Yes, so there is some progress and the fact that there are sixteen (16) out of twenty (20) departments now reconciled is good progress. I am impressed that the Fire Department, which is so big and has complex payroll has no discrepancies. I see the Fire Chief here, so kudos chief. Thank you, Steve. To know that there is actual progress and that we will be going to an automated system by... did you say Fiscal Year 2016?

Mr. Hunt: Again, it may not be Countywide because of the complexity of certain pay codes, but the easier departments that are more normalized-type pay coding— that is the intent, yes.

Councilmember Yukimura: Very good. Thank you.

Council Chair Rapozo: I know we have Councilmember Kagawa, but before that, Steve, you might as well stay right there because you are probably going to get more questions. I hear procurement and migration. I guess my question is what is causing the problem? It is not the computer. If someone gets a timesheet with a vacation "8" on it as a vacation or sick and there is no accompanying paper, that has nothing to do with the computer system. That has nothing to do with migrating. It is a supervisor failed or an employee failed to get the necessary documentation. That is the problem. It is not the manual or computer. Somebody is failing. Eight (8) out of ten (10) instances is a problem. I guess, have we looked at where that problem is? Is it a supervisor or training issue? It is a Human Resources (HR) issue? I know the Fire Chief is here and JoAnn said

"great," but you checked ten (10) samples. I know that if you checked them all, you might find some. If you checked all of Elderly Affairs, I think that maybe the proportion would be less. Right now, you are looking at eighty percent (80%) of them, but it is not accurate because you only checked ten (10). My concern... more than waiting for procurements and computerized systems— the root problem is not that. The root problem is that somebody is not doing their job. That is the root problem. I guess what I would like to see in the fix-up plan is that we have identified that there was a failure by a supervisor we have counseled and it is not going to happen again. This has been going on for way to long. Again, if a slip of paper is missing, it is not a computer problem. That is not a human error; supervisor problem. That is what I kind of want to see, Steve. I want to see it targeting the real problem, not figuring out what computer system because it is rubbish in/rubbish out. If we are not putting the right information into the computer, it does everybody no good. Have we even gone that far? Have we even investigated these matters and determine why in fact it did not happen?

Mr. Hunt: I cannot speak to that. I do not think it has been addressed in that manner yet.

Council Chair Rapozo: Okay.

Mr. Hunt: Payroll is now a function of HR, so I am speaking on behalf of Finance, but I know they have made efforts and it involves Information Technology (IT), which is Finance, so I know that they are making progress towards automating that. The reconciliation, which is the timesheet itself, the log; those are now coming more accurate, so that we are able, but it is the accompanying documents that say whether you have authorized leave or not. But we are showing that they took it, but whether it was authorized or not is the issue.

Council Chair Rapozo: That is my concern. You have employees that are taking vacation without any authorization. The supervisor should be saying, "Hey, you cannot do that." You have to get authority before you take off, but maybe the culture is they ask around with people that they work with and say, "Hey, I am going to take off tomorrow." They said, "Okay." They put it on the timesheet and it is done. I am hoping to God that these hours are being deducted. Without the sheet, I do not know how...

Mr. Hunt: I think that the reconciliation speaks to that. I think that the accruals are now in a point where they are more accurate. We still have a few...

Council Chair Rapozo: They need to be all accurate.

Mr. Hunt: Yes. I think they are accurate in terms of what we are deducting in pay and that portion. It is just the accompanying authorization that we are having the issue with.

Council Chair Rapozo: Okay. Councilmember Kagawa.

Councilmember Kagawa: Thank you. Steve, you can stay. It is kind of alarming for me because you said sixteen (16) out of twenty (20) were good, but Public Works is not good. Public Works is our biggest department of all. They are not good. They are one of the eight (8) out of the ten (10) that messed up and it is my committee. Anyway, this is my fear. I want you to tell me or answer if you

believe that this may be happening. My fear is that without the proper paperwork being kept in the file that an employee in one (1) of these three (3) departments that are messing up, handing in his vacation slip to the supervisor, not coming into work on the next day, and the supervisor now turning it in. The County now suffers a double-whammy. We lose the work that was supposed to be performed by the employee, plus his vacation hours do not get deducted. Is that possibly happening when this missing paperwork is occurring?

Mr. Isobe: What we are looking at is what is logged on the log and if there is support for it. I think what we were looking at is if there is no support that they did take off, if the employee came back and said, "My balance is wrong," and they saw forty (40) hours taken off and they do not have that slip saying, "I requested off to take off," then they could come back to say, "They took forty (40) hours away from me," and you do not have any support saying they requested off or did take off.

Councilmember Kagawa: Let me tell you that my reason for that question was that if it is on the positive end of the employee, he will not admit that the records are off. They will only admit when they are short. What I am saying is that this is a huge, huge concern. This missing paperwork— I heard about it last year and I would have thought that we would have gotten a better handle by this year. I mentioned that same scenario. The employees are not going to say, "Hey, my balance is too high." You will never get that question. They will only say when you are taking away from them, so it is going to be a win-win situation for the employee. Not to demean our employees, but payroll is a very complex situation when it comes to government because we have twenty-one (21)/twenty-one (21). That is a lot of days off for a lot of employees and if we do not get a handle of a good system in each department like how the Fire Department has, it is going to be haywire. I understand that we know there is a problem, but I will tell you that it is pretty scary to sit here and know that you sampled ten (10) and you got eight (8) out of ten (10) missing paperwork. It is a pretty bad number; eighty percent (80%) wrong.

Mr. Hunt: Just to add some clarity on that, there are two (2) sheets that are submitted: one is the payroll, the actual log, which we call the timesheet. The employee signs on the timesheet. When they are putting sick, vacation, comp time, or whatever on that sheet, that goes to the supervisor also to cosign. What we are talking about is the half-sheet that gets stapled on usually that is the authorization. So you took vacation, but you did not tell the supervisor. You put your vacation date down and the supervisor authorizes the timesheet, but he also should have preauthorized the vacation that you took. The bottom line is the timesheet itself, I believe, is now reconciling, so the concern from a liability standpoint is are the amount of accrued vacation days accurate and what is our liability for full payout if everyone did a run on the bank and we had to cash out all of our sick, vacation, and comp time? I believe that is very close to accurate now. What we are talking about is the authorization process to say whether that logged vacation day you put down and signed off to as an employee and supervisor signed off was actually authorized.

Councilmember Kagawa: I will take your word for it and feel a little bit better, but I just think overall that unless I am the one performing the audit, I cannot say that I feel totally comfortable.

Mr. Hunt: I do not want to put words in their mouth, but...

Councilmember Kagawa: If you have a check and balance or what have you, it is done for a reason when they setup the system and it is to make sure that the employee has a record and the employer has a record, even as far as authorization. If we are missing one side, I am worried that... let us not tell our employees that, "Okay, even though you are missing that half, it is okay. We are probably correct on the total." Let us just follow what needs to be done like the Fire Department. Let us get these four (4) departments, one (1) huge one under my purview; let us get them all inline so that we have... because payroll is a very sticky issue. I think we need to get on top of it. I am not blaming you, Steve. I think it is each department's job to handle their payroll, but I guess if you could send a message to them that it is unacceptable. We have to cure the payroll problems somehow, like now. Thank you, Chair.

Council Chair Rapozo: Thank you. I do not want to "beat a dead horse," but a supervisor gets the timesheet at the end of the week or at the end of the two (2) week period, and he comes across someone that took off last week and there is no supporting paperwork. A supervisor has to know, "Hey, I did not authorize that vacation." Number one, that is called "absent without leave." The employee gets disciplined for not showing up for work. That is how it is done. I guess my question is— maybe somebody from the Staff can send this out to the three (3) departments, but I want to know what happened. Did we condone that behavior that the employee took off without authorization? And we pay them anyway? No. If you are taking off and not doing the paperwork, then two (2) people should be disciplined: the employee for Absent Without Leave (AWOL) and the supervisor for dereliction of duty. This is the fourth or fifth year already. It is frustrating. We already have problems because when the guy does not show up for work, guess what we do? Unauthorized. We have to bring somebody in or have somebody come in on overtime. We wonder why our overtime budget in Public Works is so high. Now I am beginning to understand that maybe we have a bigger problem than we know. I guess that is my frustration. These audits are intended to tell us how we can do things better, not to go punish people. When you come across something like this, eight (8) out of Elderly Affairs, nine (9) out of Planning, and this is out of ten (10). It is a problem. It is a systemic problem. I do not see how difficult it is to get those supervisors and ask them what happened on those eight (8) cases. What happened? Did the dog eat the homework between the time I signed the authorization and he turned in the timesheet? There is something wrong with eight (8) out of ten (10). We will send that across. I would like to see each of those department heads investigate those matters or we will because I am tired of it. Every year, it is the same story. I would like to see some supervisors being held accountable for once. Are there any more questions on this? I can promise you that this will show up again on an agenda shortly. Thank you. You can go on to the next one.

Mr. Isobe: Okay. The second one, 2014-002 on page 35, "Improve Internal Controls Over Financial Agreements." Part of internal control is information and communication, and providing the proper information to Finance in order to properly record the finances of the County. Well, we came across— this year was an agreement that had been executed that there was some financial impact to the County where a little over three million two hundred thousand dollars (\$3,200,000) worth of capital assets were dedicated to the County for the Līhu'e Wastewater Treatment Plant. There was some financial impact to that and it was

not picked up in the County's records. When we kind of looked at it and in talking with Steven and Renee there, they were not provided this agreement, so they were not aware of this information— that being an element of internal control and information and communication, and providing that information, that is where that breakdown was. It did turn out to be a significant adjustment about three million two hundred thousand dollars (\$3,200,000) capital asset was recorded on the books, along with a seven hundred fifty-eight thousand dollar (\$758,000) liability. Excuse me.

Council Chair Rapozo: Do you want some water or a cough drop? I would choke, too, if I had to read that. I guess I have one question. I know you covered in the beginning of the audit report the CAFR, but why would this not be a material weakness? Three million two hundred thousand dollars (\$3,200,000)— and they forgot to notify Finance? That is three million two hundred thousand dollars (\$3,200,000) obligation/liability and we just forgot to tell Finance? That is what I am reading.

Mr. Hunt: First of all, I have a self-confession. I actually turned this document over and it says... I think this might be something of interest, so it was self-reporting. It was not something that they found. I actually turned it in and said, "I have an issue with this."

Council Chair Rapozo: Thank you for that, Steve.

Mr. Hunt: This was a document that was an agreement crafted in March 27, 2009 and it was signed off by the Mayor, the County Clerk, and the County Attorney, with no signature from the Director of Finance. That is an issue. Every obligation that dentures the County with debt should run through Finance.

Council Chair Rapozo: I think that is in the Charter. Is that not in the Charter? Okay.

Mr. Hunt: Again, this was a wastewater treatment plant that there was an agreement that they would build and they would get credits, and now... first I am becoming aware of it, is almost a demand letter from the developer saying, "Well, we built a plant and we want our credits." They only built out a portion of their density, so it is a fraction of what they actually will get back, but it is something that needed to be booked.

Council Chair Rapozo: Well, I appreciate you self-reporting this. Again, I guess going back to my original question; do we do an inquiry? Does the Administration do an inquiry into this and find out why? I am assuming it is a department head... I am assuming it is Wastewater. I do not know. I am not going to speculate, but I would assume that some high level person in this County made this arrangement or agreement with this company. I would assume. Am I assuming correct?

Mr. Hunt: That is what I would assume as well.

Council Chair Rapozo: I do not know because I do not have a copy of that thing that... I do not even know if that came before the Council. The County Clerk signed it. It came to the County Clerk for signature, but that does not

necessarily mean that it came to the Council for approval. Councilmember Yukimura.

Councilmember Yukimura: Is this the Kaua'i Lagoons Agreement?

Mr. Hunt: Yes.

Councilmember Yukimura: It did come before us, but that does not mean it did not have to be reported to Finance.

Mr. Hunt: Yes.

Councilmember Yukimura: Why is this not a material finding?

Mr. Isobe: I guess the materiality on the capital assets side is kind of big, in addition to, I guess, discussion with Steve and Renee them—did they have it; it just was not there yet. I think on the materiality side of it, I do not think it would have been that big of a misstatement. When you add it all up, I think the three million dollar (\$3,000,000) was a donated asset that the only part that is missing is the liability that represents the seven hundred fifty-eight thousand dollars (\$758,000) in that Wastewater Treatment Capacity Assessment Fees that are being requested to be refunded. That is the portion that they have paid at this point that would be potentially credited back to them.

Councilmember Yukimura: Yes, so they have paid... they gave us the service of upgrading the plant, right?

Mr. Isobe: Yes, they spent three million two hundred thousand dollars (\$3,200,000).

Councilmember Yukimura: And the agreement was that they would be repaid for that value through fees?

Mr. Isobe: They would be credited up to...

Councilmember Yukimura: Yes, credit, okay.

Mr. Isobe: For future assessments.

Councilmember Yukimura: Yes. So that credit was not recorded? Or that liability, I guess.

Mr. Isobe: The agreement is only to repay what they have already paid. It is not that they are going to refund—you were going to give them everything. As they connect up more and more units, they will not have to pay that fee. As of June 30, 2014, I believe they have only paid in seven hundred fifty-eight thousand five hundred fifty dollars (\$758,550) from 2009 to June 30, 2014.

Councilmember Yukimura: That has been credited, so to speak?

Mr. Isobe: Excuse me?

Councilmember Yukimura: Has that been credited? We have given them credit for the hookups that they have done. They have not had to pay?

Mr. Isobe: No, they have already paid that in and you guys have to pay them back.

Council Chair Rapozo: They want us to refund the money.

Councilmember Yukimura: Okay, so that is the method that we have agreed to.

Council Chair Rapozo: Well, somebody did. I am sorry, Councilmember Yukimura, but the question that I have now is where does that money come from?

Mr. Hunt: It should come from the Sewer Fund.

Councilmember Yukimura: Yes.

Council Chair Rapozo: But is it budgeted?

Mr. Hunt: No.

Council Chair Rapozo: Okay.

Mr. Isobe: In the Sewer Fund at year-end, Finance did book a payable for that seven hundred fifty-eight thousand dollars (\$758,000) because it appears to be... we cannot make that judgment, but based on looking at the agreements, there is that liability that is potentially out there, and we did talk to Wastewater about it, and they do agree.

Council Chair Rapozo: Are there any questions? Councilmember Kagawa.

Councilmember Kagawa: I am just kind of confused. We got this plant from Kaua'i Lagoons or what have you, worth three million two hundred thousand dollars (\$3,200,000) and the agreement was that we were to provide them in Wastewater Treatment Capacity credits of three million dollars (\$3,000,000).

Mr. Isobe: Yes.

Councilmember Kagawa: So why do we owe them money?

Mr. Isobe: Until they actually dedicated and finished all of the improvements, they had paid in...

Councilmember Kagawa: It just looks like it was a "wash agreement." They provide us with the asset; we provide them with government credits. Why do we owe this seven hundred fifty-eight thousand fifty dollars (\$758,550)?

Mr. Isobe: Prior to the agreement in 2007 to 2008, they had hooked up about two hundred ten (210) units and paid in about seven hundred fifty-eight thousand five hundred fifty dollars (\$758,550). What the agreement then

went for was up to three million seventy-one thousand two hundred fifty dollars (\$3,071,250) in credits.

Councilmember Kagawa: We should have not collected it, basically.

Mr. Isobe: Well, I think you guys already collected it and the agreement came into place in 2009.

Councilmember Kagawa: I understand now. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I recall it as a very innovative win-win agreement. The error was in the department head not including the Sewer Fund in his accounting, right?

Mr. Hunt: Well, there were two (2) errors: one would have been to report that as "fixed assets" to Accounting as it was being a work in progress, as well as the completion of the asset. The second is that the agreement itself should have involved the Director of Finance because it is an obligation and it would have been included in the budget had it been a known cost.

Councilmember Yukimura: Okay, so the writing of the agreement was an error? They did not put in a "Director of Finance" signature line.

Mr. Hunt: Correct.

Councilmember Yukimura: So that was the County Attorney's Office.

Mr. Hunt: Right. I cannot speak to 2009 whether the Finance Director was aware of it and did not sign or whether he was excluded altogether.

Councilmember Yukimura: But the County Attorney should have known, especially if that is in the Charter, though I do not know for my own personal knowledge. So that was one error because with your signature line, it would have been routed to Finance, right?

Mr. Hunt: Yes.

Councilmember Yukimura: The second error is not including it... I do not know who does the accounting for sewers, but I would assume that it starts with the department head.

Mr. Hunt: Right, and sewers would have been reported that to a central accounting, so we would have been able to book it as a fixed asset, depreciate, and do the normal things that fixed assets go through.

Councilmember Yukimura: Okay. To prevent this kind of thing from happening again, what are the safeguards?

Mr. Hunt: Again, I will be sending a circular saying anything that involves leases and things that need to be routed through Finance... I



will be reminding them that these documents cannot occur without having Finance review and approve.

Councilmember Yukimura: I guess the County Attorneys need to be duly noticed also. We have not had errors since then, so...

Council Chair Rapozo: We do not know.

Councilmember Yukimura: That is true.

Council Chair Rapozo: It might come up in next year's audit or the year after.

Councilmember Yukimura: So it needs to be a regular part of the County Attorney's Office that these kinds of agreements...

Mr. Hunt: Well, the agreement's language itself is always drafted by the County Attorney or at least reviewed if they are drafted outside. They come in and go through review...

Councilmember Yukimura: Okay, so that is the other alert or procedural/systemic correction that needs to be made.

Mr. Hunt: Yes.

Councilmember Yukimura: Who is going to do that?

Mr. Hunt: I am going to be drafting a circular that goes to every department in informing them what their duties are in terms of reporting in any of those types of issues with leases, agreements, and any financial obligations.

Councilmember Yukimura: Yes, and I see our Deputy County Attorney in the back, so if you could communicate afterwards. Thank you.

Council Chair Rapozo: Thank you. Are there any more questions on the second finding? Staff, as we did with the first finding, I would like the same communication going across to the department to take a look at... the way you stop it is... the circular is great and it reminds people, but I think somebody has to be held accountable. If it was an honest, innocent mistake, that is one thing, but I cannot imagine any... this is large too. This is pretty substantial that it would not be routed to Finance. I do not know how that would happen. I just cannot see that happening. Are there any other questions on the second finding? If not, thank you very much.

Mr. Isobe: Part of that report, we also report on the status of periodic findings and as we had mentioned earlier, we did put "partially accomplished" because part of that finding was accomplished, but it is still an ongoing finding. That is the Single Audit Report. The last report that we did issue was the Management Advisory Report. The first finding 2014-001, it says, "Improve Internal Controls Over pCard Purchases." Again, this is a repeat finding, that comment that we had made in the past. This is just over the policies and procedures over the use of the pCards. In the forty (40) transactions that we looked at, we had six (6) findings this year. I believe in the prior year, we did have nine (9)

findings, so it is decreasing. There are two (2) instances where there is no evidence that the procurement process was being followed; two (2) instances where the approval was done after the purchase was made; and two (2) instances where there was no evidence that the purchase was approved prior to it being made. I guess when you are looking at all of the use of the pCard, it does not change the procurement policies and procedures of getting approvals prior to purchasing. It eases the actual purchasing process and it decreases the amount of check-writing and paperwork that needs to be done for small purchases under one thousand five hundred dollars (\$1,500), but the actual approval process still needs to occur. I believe that the purchasing department did put on training sessions for the different pCard users, and so that is maybe part of the decrease. I guess what our recommendation is like a monitoring control or looking at transactions as they... pCard users... supporting purchasing documentation throughout the year versus only when we come through to do the audit. But that is our finding 2014-001 in our management letter.

Council Chair Rapozo: Thank you. Are there any questions?  
Councilmember Kagawa.

Councilmember Kagawa: Thank you, Chair. Is that six (6) instances out of forty (40) that we... were all two (2) separate instances or any of those combined?

Mr. Isobe: It was six (6) separate instances.

Councilmember Kagawa: Okay. I recall that this was on the report last year as well. Did it get better from last year? We have an eighty-five percent (85%) success rate right now if we are six (6) out of forty (40), which I think in business management is not a good batting average. What was last year's?

Mr. Isobe: Nine (9) out of the forty (40).

Councilmember Kagawa: Okay, so we got a little better on the batting average, but we are still not all the way there. I am particularly concerned about the one where approval was done after the purchases were made. That just seems blatant, "you messed up, and you tried to cover it later." This should be rules that are crystal clear. I think you guys feel that way. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I see on page 12 that there is a response from the Administration. He actually says fourteen (14), thirteen (13), and six (6) violations over the last three (3) audits. That is on the bottom of page 12. If his numbers are right, then this year is half what it was. I do see that there is an intention to improve. Thank you.

Council Chair Rapozo: Thank you. Are there any other questions? Again, the same thing, Staff. I share Councilmember Kagawa's concern about the approval after the purchase, but disturbing as well are the other two (2) items where no evidence of the procurement process was followed. That is troubling. Also, that no evidence that the purchase was approved prior to it being made. I am not sure if we can find out... I guess we can send the request over to find out who these departments were. We do not need to go over that now. We can send an inquiry to the department head. They should be able to do the inquiry and let us

know. If it is Council Services, you can let me know. I do not think it is Council Services because they are strict over here. You cannot buy a pencil without three (3) signatures. Thank you very much, but troubling nonetheless. May you go to the next finding, please?

Mr. Isobe: Okay. Finding 2014-002, "Review Treasury Trust Accounts." This is another repeat finding. The County has various Trust and Agency Funds: Trust and Agency Fund, Treasury Trust Fund, and the Real Property Tax Trust Fund. We did have issues in the past a few years back where a bunch of these Trust and Agency Funds were not being properly reconciled and they were old and outstanding balances. This will be carried forward until there is that determination of what needs to be done with some of these older balances there. There is that one that is still holding a lot of old balances, which is the Public Works Fiscal Treasury Trust. There are about twenty-five (25) deposits for about one hundred thirty-four thousand dollars (\$134,000) that date back to May 9, 1986 through September 4, 2007. That is a long way back. The determination just needs to be made as to what to do to take care of these older balances.

Council Chair Rapozo: Any questions?

Councilmember Yukimura: What is the answer?

Council Chair Rapozo: They are continuing to try to resolve the issue. That was the same answer that they had last year. Unfortunately, I do not try to be funny, but it is funny because we pay our department heads a lot of money and what scares me is that you do random checks. Some people have the false belief that when we audit, we audit everything, but we do not. We do random spot checks and these little things, which appear to be little—it happens every year. All we have to do is make a determination, right? That is your recommendation.

Mr. Isobe: Well, they know the listing. They have the listing of who it belongs to. It is determining what to do, whether it is a...

Council Chair Rapozo: To give it back...

Mr. Isobe: Give it back, find out where...

Council Chair Rapozo: I would think that this would take me and my Staff twenty (20) minutes. If we sat down today and said, "Hey, we have this one hundred thirty-four thousand dollars (\$134,000) that has been in there since 1986. What are we going to do with these funds?" Are we going to give it back or are we going to apply it to this account? I would think that it is relatively easy to resolve. What bothers me is that it was a report last year and it is again this year. The response is, "We will continue to work on this and resolve this." Councilmember Yukimura.

Councilmember Yukimura: It may not be that easy. It may require some legal interpretation of the parameters governing each fund. I do not think you can get it done in twenty (20) minutes, but surely you can make some progress in one (1) years' time and have a plan of action or they should be able to tell us what some of the problems are that is preventing them from completing the task.

Mr. Isobe: In the prior year, there were forty (40) separate deposits that were about one hundred forty-four thousand dollars (\$144,000). They did take care of about fifteen (15), it appears.

Councilmember Yukimura: That is a lot.

Mr. Isobe: They did make some progress.

Councilmember Yukimura: Are you talking about Public Works?

Mr. Isobe: Yes, in that same account. This has been the last one that we have been carrying forth for the last couple of years. They are making some progress and I guess, like you are saying, making the legal determination of what to do to with some of them.

Councilmember Yukimura: So you said how many were there last year that were not updated?

Mr. Isobe: Forty (40).

Councilmember Yukimura: Now they are down to twenty-five (25).

Mr. Isobe: Yes.

Councilmember Yukimura: So they have covered about half of the funds?

Mr. Isobe: Yes, fifteen (15) of the forty (40).

Councilmember Yukimura: Okay. Their response should have told us that. That would have helped us assess the progress. Thank you for that additional information.

Council Chair Rapozo: Are there any other questions?  
Councilmember Kualii:

Councilmember Kualii: Along the lines of what Councilmember Yukimura was just saying, so you do your recommendation, but it goes off to the different staff members and how they choose to respond, they respond; not with your assistants in any way.

Mr. Isobe: Yes.

Councilmember Kualii: That is really obvious in this response and it is kind of frustrating because when we are looking at Mr. Hunt's responses earlier, they seemed to be informative and well thought out. But here, your recommendation was pretty simple. It just says that "the County should continue its efforts in determining the proper disposition of the older balances held in the treasury trust accounts and implement procedures to require timely follow-up on aging deposits." It is kind of specific; we have to act. The County's Public Works response is, "Public Works will continue to try to resolve the old cash deposits. We will also continue to try to keep permits active and not forgotten." Language that says "continue to try to resolve" to me sounds like they are not going to do nothing, so I am a little bit frustrated. Thank you.

Mr. Isobe: The last one is "Improve Internal Controls Over Emergency Procurement." During our audit, emergency procurement purchase orders were being used and we noted several instances here that we are bringing to your attention. We noted three (3) instances where emergency procurement was used due to lack of timely repair and maintenance of County property. One instance was where emergency procurement was used and accessed of what was deemed necessary for the immediate emergency situation. We also noted two (2) emergency Purchase Orders (PO) that remained open for a long period of time. Our understanding is that it does take some judgment in determining when these emergency POs should just need to be approved. We are not in that exact situation when these emergency POs need to be approved. There is some judgment that from an outsider looking in where we are kind of writing... there is that potential that it may appear as violations of the procurement code. Like I am saying, there is some judgment that needs to go into it. I know there could be situations where lives could be threatened and it could expose the County to liability if things do not just get done. That is why we are just making the comment that when looking at these emergency POs and the use of these emergency POs, there is that potential.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: finding?

Is this the first year for this particular

Mr. Isobe:

Yes, this is a new finding this year.

Councilmember Yukimura: I see that there is a response on page 15 that appears appropriate. It is interesting to me that in your first instance, three (3) instances where emergency procurement was used due to lack of timely repair and maintenance. That is what we were talking about previously on the agenda; a plan for timely maintenance and it is interesting to me that it can turn into an emergency procurement. I guess it is like cesspools overflowing, too, and stuff like that.

Mr. Isobe: I believe these were instances where a fence was deteriorating and needed to be replaced. It potentially could have fallen down. When you look at the procurement code, it actually says, "the need for emergency procurement for the lack of routine maintenance should not be used for emergency procurement."

Councilmember Yukimura:

Very interesting. Thank you.

Mr. Isobe: I want to note that I did speak to Steve about this and I know they are working with Parks and Recreation and they have toured all of the parks and trying to take a log of what needs to be done to prevent this type of situations.

Councilmember Yukimura:

Thank you.

Council Chair Rapozo: So the first three (3) instances— lack of timely repair and maintenance of County property. Is that all Parks and Recreation?

Mr. Isobe:

Yes, all Parks and Recreation.

Council Chair Rapozo: Who authorized the emergency procurement?  
Do you have that information?

Mr. Isobe: So the emergency procurement actually comes through Purchasing, and then to the Director of Finance.

Council Chair Rapozo: Right, but who determines if it is an emergency procurement or that we fall into that? Is that the Procurement Officer? This is serious because it puts the County at liability or exposure with the State with the procurement office. I am concerned. The other one, "used in excess of what was necessary to remedy the immediate emergency situation." Which department was that? Was that Parks and Recreation as well?

Mr. Isobe: Parks and Recreation.

Council Chair Rapozo: Are the last two (2) Parks and Recreation as well?

Mr. Isobe: The last one is Public Works.

Council Chair Rapozo: The last two (2)?

Mr. Isobe: The two (2) instances of POs remaining open for a long period of time. Those are two (2) POs that were open from 2007 that remained open.

Council Chair Rapozo: Until now?

Mr. Isobe: Until now.

Council Chair Rapozo: And we are making purchases off of that purchase order?

Mr. Isobe: I believe one had a purchase maybe last year... there were payments made on it, but it had not been used. I do not think it was used in 2014 and I believe they closed it off recently.

Council Chair Rapozo: Well, probably after the audit, I would guess.

Mr. Isobe: Yes.

Council Chair Rapozo: I would close it, too. What was the Public Works one for?

Mr. Isobe: Repair of Pono Kai Seawall.

Council Chair Rapozo: Which we budget in our regular budget, so I do not understand why we would go through emergency procurement. When we go through emergency procurement, we do not have to go through the bidding process, right? If it is an emergency procurement, we can basically pick who we want.

Mr. Isobe: It still requires you to at least try to do as much of the procurement process as possible.

Council Chair Rapozo: Steve, maybe the question is for you. In these instances, did we go out to bid?

Mr. Hunt: No, we did not go out to bid.

Council Chair Rapozo: Steve, can you explain...

Mr. Hunt: I was going to answer your earlier question, which is "who approves," and ultimately, it is the Director of Finance that approves.

Council Chair Rapozo: Right, but it goes through...

Mr. Hunt: The initial write-up as to the reason it is going through emergency procurement is done at the department level, so they would justify the reasons why it would have to be done emergency and why "time is of the essence." Partly, they describe somewhat of a judgment call. You have to consider the potential risks involved and we are at that area where if it was not done with proper maintenance throughout the year and you have deferred maintenance that created this situation, but this situation in itself puts public harm at risk. It is a judgment call and sometimes—again, I am somewhat new to the position and did not have the training, but I take that into consideration as well because I am also charged with risk management. If it is an area where I believe needs to be done immediately, then I would authorize that.

Council Chair Rapozo: Thank you for your honesty. I appreciate that, I always do. It is just that throughout the years, I have asked questions about emergency procurement for certain projects well before you were here, Steve, and from what I understood, that authority, to me, is very limited because it really circumvents the procurement process. It allows you to go out and not go out to bid. I think if we are using that, we need to stop because we fund these projects. We fund maintenance, parks, and the Pono Kai Seawall. Like I said, we have various funding for that. It is as simple as coming here if they need more money. This is not even a money issue; it is a procurement issue. It is poor management if we are coming here. Steve, you obviously get the request with the justification and you are like, "Oh my God. I better sign this." I see that we are going to offer training again, but we will take a look at each one of these things individually. Councilmember Yukimura.

Councilmember Yukimura: May I ask what the amounts for the three (3) instances were due to lack of timely repair and maintenance? Ballpark amounts are fine.

Mr. Isobe: One was about twenty-five thousand dollars (\$25,000). Another was about forty-four thousand dollars (\$44,000).

Councilmember Yukimura: Wow.

Mr. Isobe: The other one was about sixty-four thousand dollars (\$64,000).

Councilmember Yukimura: These were not fences then. What was the nature of these?

Mr. Isobe: Fences.

Councilmember Yukimura: They were fences? Where?

Mr. Isobe: One surrounding the Wailua Houselots tennis court. The other for Kapa'a Swimming Pool.

Councilmember Yukimura: They have a Repair and Maintenance Fund, which I have been trying to get an accounting of. I do not know... it might have been able to support the twenty-five thousand dollars (\$25,000). Where did the moneys come from then? Maybe that is where it came from. We are talking here about just procurement process.

Mr. Isobe: Yes.

Councilmember Yukimura: Yes, I think it is worthy to get more information about where these moneys came from.

Council Chair Rapozo: We will because it is not a money issue.

Councilmember Yukimura: Right.

Council Chair Rapozo: Again, it is the decision made by the County to circumvent procurement.

Councilmember Yukimura: It is a process issue.

Council Chair Rapozo: I will be curious to see if it is all the same contractor. We are not throwing any contractor under the bus because it is not their fault, but is it the same contractor?

Mr. Isobe: I do not have that in front of me.

Council Chair Rapozo: Okay. We will pursue that. Jade, let us do that right away. Councilmember Kagawa, it will show up in your Committee.

Councilmember Kagawa: I just had one question. The fencing around Kapa'a Swimming Pool is probably what was done.

Mr. Isobe: Yes.

Councilmember Kagawa: For that one, obviously you want to fence it off because what if a minor who cannot swim gets in there and drowns off hours? That would seem like an emergency request to me. Anyway, as far as the Houselots park, that one does not appear clear as to why it would be an emergency. We can put that on. Thank you.

Council Chair Rapozo: We will definitely send over the inquiry and make a determination. I think you hear where I am going with this. I am concerned that we are not doing things right and we are trying to find a loophole. Like I said, in my experience of trying to get emergency procurements done through the Finance Department is near impossible, I guess in the old days. Again, I am getting concerned because the department heads believe that this is the way to do it. We can get it done this way. There is no malicious intent or no criminal intent,



but that is just how it is being done; the culture of this County. Steve, procurement wise, if we needed to put up a fence, I agree with Councilmember Kagawa, but how long does it take to get a procurement done for a fence around a swimming pool? What was that? Did you say twenty-five thousand dollars (\$25,000)?

Mr. Isobe: Sixty-four thousand dollars (\$64,000).

Council Chair Rapozo: Okay. I went into the fencing business, but anyway...

Mr. Hunt: I think anything over twenty-five thousand dollars (\$25,000) is a form or procurement.

Council Chair Rapozo: How long does it take?

Mr. Hunt: It can vary between putting out the bid to notice of award, to job done. It can be multiple weeks or even months.

Council Chair Rapozo: Okay. When was the plan to do the Kapa'a Swimming Pool? I remember having that discussion a while ago.

Mr. Hunt: I think what accelerator it was the beam in the restroom...

Council Chair Rapozo: That the thing fell.

Mr. Hunt: Yes. To me, at that point, it became an emergency and you need to protect the public and protect ourselves.

Council Chair Rapozo: I agree with Councilmember Kagawa that at that point, it may have qualified. Councilmember Yukimura.

Councilmember Yukimura: But if you go back through the process, this whole issue of timely repair and maintenance, that came up with the Kapa'a Swimming Pool that we should have never allowed it to deteriorate to the extent that we did and one of the reasons that happened is because we do not have a repair plan and a whole system or process for doing the repairs and maintenance in a timely way. Thank you.

Council Chair Rapozo: Thank you. We can move on to the next item.

Mr. Isobe: That is it. I guess just the status of the prior Management Advisory Report comments, internal controls over pCard— partially accomplished; it is decreasing. For treasury trust, we also put it as partially accomplished. They are moving along there, too. We did have a finding in the prior year about reconciliation of the Refuse Collection Assessments that is now being done, so we have that as accomplished.

Council Chair Rapozo: I am sorry. You have that?

Mr. Isobe: As accomplished, that they are now doing it.

Council Chair Rapozo: Okay. Thank you.

Mr. Isobe: There is one last one: the unearned revenue and grant receivables. That is also accomplished. So there is some progress there. That is all we had on the report side. I did want to just communicate a couple of other things to you guys orally. Things came up during the CAFR. There are significant estimates within the CAFR itself, one of which was your landfill liability, claims and judgments. There are significant estimates that are used in putting these things together. We did not have any difficulties in performing the audit and there were no uncorrected adjustments that we did not post within the CAFR. To our knowledge, management has not consulted with other auditors, meaning that they are not shopping around for a second opinion on the accounting. Other than the findings that we have reported to you, we have no other findings that we have communicated to management. These are all the findings that are there. I want to thank Steve and his people in Finance. They have provided us four (4) years of a lot of support through performing the CAFR audits. This is our last year on contract. I appreciate all of the support and help that they have provided over the years.

Council Chair Rapozo: Thank you very much. Councilmember Yukimura.

Councilmember Yukimura: I have one last question. It is about the CAFR and it is regarding Councilmember Kagawa's point about the amount that lapsed from our departments. What page was that? Where is that figure showing the amount of fourteen million dollars (\$14,000,000)?

Mr. Isobe: On the far right column, your "Variance With Final Budget - Positive (Negative)."

Councilmember Yukimura: On page 35, right?

Mr. Isobe: Yes.

Councilmember Yukimura: Okay, so that is about fifteen million dollars (\$15,000,000)?

Mr. Isobe: Yes.

Councilmember Yukimura: Is there a rule of thumb that... there will always be lapses because a budget is never perfect. Is there a rule of thumb about when the variance looks like we are not doing good budgeting versus a percentage variance that shows that we are pretty close?

Mr. Isobe: Well, for us, we do not do the budget. We are not experts on doing these kinds of budgets and stuff. I know in the prior years that it was way larger. I think that one year was twenty million dollars (\$20,000,000) plus excess. All it is really doing in just pretty much telling you how tight you folks are budgeting. "Are the different departments staying within their budget or how far off they are from their budget?" That is pretty much it. I do not think there is a rule of thumb of what percentage you want to be under budgeting or over budgeting.

Councilmember Yukimura: You have it by departments somewhere, do you not?

Mr. Isobe: This is by fund, so your General Fund will have the majority of your departments and agencies there. If you look in the previous pages, you will see that it is broken down by general government, public safety, and Public Works.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Kagawa.

Councilmember Kagawa: Thank you, Blake. Great job. I am impressed with the audit and your answers. Is this your fourth year doing it?

Mr. Isobe: Yes.

Councilmember Kagawa: So you are not doing next year's?

Mr. Isobe: I believe it is going out for procurement.

Councilmember Kagawa: Okay.

Mr. Hunt: Non-emergency.

Councilmember Kagawa: Thank you for your presentation and I think it may take me at least... so if I can call you or write a follow-up question because I need more time to get the numbers. It may even be a question for Steve or you guys. Thank you.

Council Chair Rapozo: Thank you. Anyone else? If not, thank you very much again. I wish you luck. I hope you guys will be bidding again. This is also Steve's last audit because he is going to Real Property. I appreciate all of you over the last four (4) years. Thank you again for a great report. When does the contract actually end?

Mr. Isobe: December 31st, I believe.

Council Chair Rapozo: Okay, so we have until the end of the year to bother you. Thank you. Is there anyone in the audience wishing to testify? Seeing none, I will call the meeting back to order. Any further discussion? If not, there is a motion to receive. Staff noted the inquiries that I requested that we can send over. If anyone else has any concerns, please let Staff know so that we can send it over in one (1) communication. Clerk, can we move on to the next item and have the Executive Sessions read, please?

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2015-05 for the record was then put, and carried by a vote of 6:0:1 (*Councilmember Hooser was excused*).

#### EXECUTIVE SESSION:

ES-768 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and (8) and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council, to provide the

Council with briefings regarding Dustin Moises v. Department of Personnel Services, County of Kaua'i, et al., Civil No. 13-1-0209 (Fifth Circuit Court), to obtain settlement authority, and related matters. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-774 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(e), the purpose of this Executive Session is to provide Council with a briefing and request for authority to settle the case of Lynell Tokuda et al vs. County of Kaua'i, et al., Civil No. 13-CV-00202 DKW BMK (U.S. District Court), and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene in Executive Session for ES-768 and ES-774, seconded by Councilmember Kaneshiro, and carried by the following vote:

|                            |  |             |
|----------------------------|--|-------------|
| FOR EXECUTIVE SESSION:     | Chock, Kagawa, Kaneshiro,<br>Kuali'i, Yukimura, Rapozo | TOTAL – 6*, |
| AGAINST EXECUTIVE SESSION: | None   | TOTAL – 0,  |
| EXCUSED & NOT VOTING:      | Hooser   | TOTAL – 1,  |
| RECUSED & NOT VOTING:      | None   | TOTAL – 0.  |

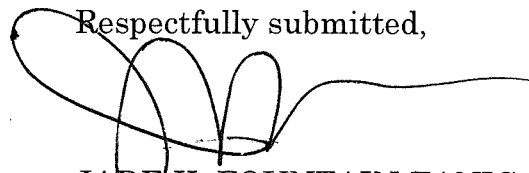
*(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Chock was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.)*

Council Chair Rapozo: We will convene in Executive Session in five (5) minutes. Thank you very much.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 4:24 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA  
Deputy County Clerk

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